SUPREME COURT OF THE UNITED STATES.

No. 7.

THE UNITED STATES, APPELLANTS,

vs.

DANIEL W. COXE AND ALS.

APPEAL FROM THE DISTRICT COURT, U. S., FOR THE EASTERN DIST. OF LOUISIANA.

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United States district court, eastern district of Louisiana—sitting in chancery.

D. W. COXE et al.
vs.
THE UNITED STATES. } No. 132.

Be it remembered that heretofore, to-wit, on the sixteenth day of June, being at the May term, A. D. 1846, of the said court, Daniel W. Coxe et al., by their solicitor, L. Janin, esq., came into the office of the clerk of said court, and filed their petition, which is in the words and figures following, to wit:

To the honorable district court of the United States, for the district of Louisiana:

The petition of Daniel W. Coxe, Henry M. Hyams, Samuel Hoady, herein acting as the administrator of the estate of Harrick Hoady, Robert Chew, George W. Copley, Henry Pry, Hardy Home, Melinda Mason, administratrix of the estate of James W. Mason, Benjamin Ballard, Solomon W. Downs, Amaron Ledoux, Alphonse Mittenberger, George Otis Hall, and John T. Sterling, all citizens of the State of Louisiana, with the exception of said D. W. Coxe, who is a citizen of the State of Pennsylvania, humbly sheweth:

That on the 20th of June, 1797, the Baron de Carondelet, then the governor of the province of Louisiana, made a grant to the Marquis de Maison Rouge,* who was then a resident of the province of Louisiana, now included in the State of Louisiana, of thirty superficial leagues of land, on the borders of the Washita river, as designated on a plan made by Laveau Trudeau, the surveyor general of said province, on the 14th of June, 1797.

That your petitioner, D. W. Coxe, and the late Henry Turner, thereafter became the owners of all the land embraced in said grant, to wit, the petitioner Coxe in the proportion of three-fourths, and the said Henry Turner in the proportion of one-fourth; that a partition in kind took place between them on the 27th of March, 1820; that the heirs and legal representatives of said Henry Turner have lately filed a petition in this honorable court, praying for the confirmation of that portion of said Maison Rouge grant which fell to the share of the said Henry Turner in the aforesaid partition; that all the remainder of said grant either belongs still to the petitioner Coxe, or to the other petitioners, all of whom claim under the said Coxe, or to other parties who have also purchased from said Coxe, and on whose behalf the said

* NOTA.—The relative clause "who was then a resident of the province of Louisiana, now included in the State of Louisiana," after the words "Marquis de Maison Rouge," is the amendment authorized by, and made by virtue of, the order of court, entered May 22d, 1849.

Coxe begs leave to sue, praying that they may be permitted to make themselves parties to this suit whenever they shall think proper to do so before the final termination thereof.

The petitioners show, that although the said grant, being a complete one, required no confirmation, still by act being recognised and confirmed by the United States, its value was very much impaired; that accordingly the former owners of said grant, and the petitioner Coxe, made incessant efforts to obtain the confirmation of the said grant or a decision on the same; that already in 1812 a favorable report was made thereon by the board of commissioners for the western district of Louisiana; that of the many reports which were made thereon in Congress, none was ever adverse to it, but the Congress always declined acting finally on said claim; that, however, in the month of December, 1842, and at the urgent instance of the petitioner Coxe, and of the legislature of the State of Louisiana, the then President of the United States directed a suit to be brought for the purpose of testing the title of the petitioner Coxe under the said Maison Rouge grant; that accordingly, on the 13th of February, 1843, a suit was instituted by the United States, in the circuit [court] of the United States, for the eastern district of Louisiana, against Richard King, who had purchased a piece of ground within the limits of said Maison Rouge grant from the petitioner Coxe; that in said suit the United States claimed as a part of the public domain the lot of ground so purchased by the said King; that the said King pleaded title under the said Maison Rouge grant, and under the petitioner Coxe, whom he called in warranty; and that the said Coxe thereupon appeared and filed on the 13th of March, 1843, an answer, in which he set up his purchase of the said Maison Rouge grant, and insisted that the same was good and valid, and binding upon the United States.

Your petitioners show, that in the answer filed by the said Coxe, on the 13th of March, 1843, as aforesaid, the particulars of said title, and the circumstances showing its validity, are set forth at length, and the petitioners beg leave to refer to the said answer as if the same was a part of this petition.

The petitioners show, that in said suit a final decree was made by the said circuit court on July 10th, 1843, by which the title of the petitioner Coxe was declared valid, and that the United States having taken out a writ of error, the said decision of the circuit court was, on the 5th of March, 1845, reversed by the Supreme Court of the United States, which issued a mandate ordaining that the judgment of said circuit court in this cause be, and the same is hereby, remanded to the said circuit court for further proceedings to be had herein, in conformity to the opinion of this court, and as to law and justice may appertain; that said mandate having been filed in said circuit court on the 9th of May, 1845, the district attorney of the United States moved said court to enter a final judgment against said King and Coxe, and the counsel of said King and Coxe moved the court to order a new trial; and in obedience to the order of said court, filed on the 13th of May, 1845, an

affidavit setting forth the grounds upon which he prayed for said new trial, and other matters appertaining to the subject then before the said court; to which affidavit the petitioners beg leave to refer, and which they pray may be considered a part of this petition; that thereupon, on the 17th of May, 1845, the said circuit court gave a final judgment against the said King and Coxe, and declared that their title under the said Maison Rouge grant was null and void; and to this decision a bill of exceptions was taken by the said counsel; that the said King and Coxe on the same day took a writ of error from said decision to the Supreme Court of the United States, and that the said writ of error is still pending in said Supreme Court and undecided.

And the petitioners further show, that whatever may be the true purport and operation of said decision of the Supreme Court of the United States, made on the 5th of March, 1845, the equity powers vested in this court by the act of Congress of June 17th, 1844, entitled "An act to provide for the adjustment of land claims," &c., authorize this court to relieve the said King and Coxe from the effect thereof, if the statements contained in the aforesaid affidavit, filed on May 17th, 1845, are true, as the petitioners affirm they are, and can be sustained as the petitioners undertake to do.

And for the reasons set forth in said affidavit the petitioner Coxe prays to be relieved from the agreement made in said suit by which certain depositions taken, in 1820, at the instance of Jean François Girod, in certain pretended judicial proceedings, entitled "John Landerneau and al. vs. Coxe and Turner, and John F. Girod vs. Coxe and Turner," were by him admitted in evidence in the aforesaid suit of the United States and King.

And your petitioners (excepting said Coxe) say that they cannot be affected either by said depositions or by the said decision in the case of the United States vs. King, inasmuch as they were not parties to said suit, and the lands owned by your said petitioners respectively was not involved therein.

And your petitioners aver, that in a supplemental petition they will show what lands are held by either of them respectively, and under what circumstances they were acquired and improved by them, as also other matters pertinent to the nature of this case.

And they show that their titles, as derived from the said Maison Rouge grant, and indeed the said grant in all its parts, are good and valid, and ought to be confirmed according to the tenor and spirit of the aforesaid act of Congress of June 17, 1844.

Wherefore the petitioners pray, that the United States by their district attorney for the eastern district of Louisiana be cited, and that the title of the petitioners, and of all the parties claiming as aforesaid under the said D. W. Coxe, be declared valid and binding upon the United States, and confirmed.

And they pray for their costs, and for such other and further relief as the nature of this case may require, and to justice and equity may appertain.

(Signed) L. JANIN, *of counsel.*

And thereupon, at the same term, and on the 23d day of June, A. D. 1846, was issued from the clerk's office the following

Citation.

United States of America, district court of the United States, to the marshal of the district of Louisiana, greeting:

You are hereby commanded to summon S. W. Downs to appear before the honorable the judge of the district court of the United States of America, at a district court, to be holden on the 1st Monday of August, 1846, then and there to answer a petition in chancery, filed against the United States, wherein Coxe and al. are plaintiffs, and the United States are defendants. Herein fail not, and have you then and there this writ, [with] your endorsement thereon how you have executed the same.

Witness the honorable Theo. H. McCaleb, judge of the said court, this the 23d day of June, in the year of our Lord one thousand eight hundred and forty-six, and the 70th year of American independence.

(Signed) N. R. JENNINGS, *Clerk.*

Memo.—The defendant is to enter an appearance in the clerk's office on or before the 1st Monday of August, 1846, otherwise the petition may be taken pro confesso.

On which was duly registered in the clerk's office the following

Marshal's return.

Received June 23d, 1846, and on the same day I served a copy of the within citation and petition on S. W. Downs, esq., United States district attorney, by handing the same to him in person.

Returned June 23d, 1846.

(Signed) WM. E. WELLS,
U. S. dep'y marshal.

And afterwards, at the same term, to wit, on the eleventh day of November, A. D. 1846, appeared the defendants, by their attorney, and filed the following

Answer.

COXE et al.
vs.
THE UNITED STATES.

In the district court of the United States for the district of Louisiana.

The answer of the United States, the defendants in the above named cause, respectfully shows, that they deny all and singular the facts and allegations of plaintiffs' petition; wherefore they pray to be hence dismissed, and that plaintiffs be condemned to pay all costs.

(Signed) THOMAS J. DURANT,
Att'y U. S.

And afterwards, at the February term, to wit, on the 28th day of March, A. D. 1849, the following order of continuance was duly registered on the minutes of said court:

D. W. COXE et al.
vs.
The UNITED STATES. } No. 132.

This cause was now called up for hearing, when, on motion of Miles Taylor, esq., for the complainants, the attorney for the defendants not objecting, it was ordered that the same be continued until Monday next, the 2d of April proximo, at 10 a. m.

And further, at the same term, on the 24th day of April, A. D. 1849, was recorded the following

Order of assignment.

D. W. COXE et al.
vs.
The UNITED STATES. } No. 132.

On motion of Miles Taylor, esq., of counsel for the complainants, it is ordered that this cause be assigned for Thursday, the 3d proximo.

And further, at the same term, to wit, on the 7th day of May, A. D. 1849, was recorded the following

Continuance.

D. W. COXE et al.
vs.
The UNITED STATES. } No. 132.

This cause having been called up for hearing, it was, on motion of Miles Taylor, esq., of counsel for the complainants, continued until further call.

And further, at the May term, to wit, on the 22d day of May, A. D. 1849, was recorded the following

Authority to amend petition.

D. W. COXE et al.
vs.
The UNITED STATES. } No. 132.

On motion of M. Taylor, esq., of counsel for the complainants in the above cause, it is ordered, that said complainants have leave to amend their petitions.

And thereupon were inserted in the body of the petition the words embraced in the relative cause spoken of in the note on page second of this transcript.

And further, at the same term, to wit, on the 26th day of May, A. D. 1849, was recorded the following

Order of subpœna duces tecum.

D. W. COXE et al.
vs.
The UNITED STATES. } No. 132.

On motion of Messrs. Janin and Taylor, of counsel for the com-

plainants herein, it is ordered that a subpœna duces tecum issue to Louis Bringier, esq., surveyor general of Louisiana, commanding him to bring into court, on Monday, the 28th instant, at 10 a. m., the original plan and certificate or procès verbal of the Maison Rouge grant," made by Carlos Trudeau, June 14th, 1797, and the copy of the same in Trudeau's handwriting.

And thereupon, on the same day, and at the same term, to wit, on the 26th day of May, A. D. 1849, was issued from the clerk's office the following

Subpœna duces tecum.

District court of the United States, for the eastern district of Louisiana.

The President of the United States, to Louis Bringier, esq., surveyor general, La.

You are hereby commanded to be and appear, and to bring with you the following documents, to wit:

The original plan and certificate, or procès verbal, of "the Maison Rouge grant," made by Carlos Trudeau, June 14th, 1797, and the copy of the same in Trudeau's handwriting, before the district court of the United States, for the said district, to be holden at the city of New Orleans, on the 28th day of May, 1849, then and there to be used as evidence for and on behalf of the complainants in a certain cause now depending therein, and to be tried between D. W. Coxe et al. and the United States, at ten o'clock, a. m., and herein fail not under the penalty of two hundred and fifty dollars.

Witness the honorable Theo. H. McCaleb, judge of the district court of the United States, at the city of New Orleans, this 26th day of May, in the year of our Lord one thousand eight hundred and forty-nine, and in the 73d year of American independence.

[SEAL.]

(Signed) ROBT. M. LUSHER, *D'y clerk.*

On which was duly registered, in the clerk's office, the following

Marshal's return.

Rec'd May 26th, 1849, and on the same day served copy of the withinsubp. duces tecum, on L. Bringier, esq., by handing the same to him in person in the city of New Orleans.

Ret'd May 28th, 1849.

(Sig'd) CHAS. A. LABUZAN, *D'y marshal.*

And afterwards, at the same term, to wit, on Monday, May 28th, 1849, was entered of record the following

Rule to submit issues to a jury.

D. W. Coxe et al.
vs.
The United States. } No. 132.

On motion of Messrs. Janin & Taylor, of counsel for petitioners, it

is ordered by the court that the defendants show cause, if any they have, on the thirtieth of May instant, at 10, a. m., why this court should not order the following issues in this cause to be directed to and tried by a jury, as disputed facts, according to the power vested in this tribunal by the 2d section of the act of May 26th, 1824, entitled "An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims," and the subsequent acts amending and reviving the same, to wit:

First. Is the document annexed to the deposition of Charles Tessier (of record in the case of the heirs of Henry Turner vs. the U. S., No. 32, and offered as evidence also herein) purporting to be a grant of thirty square leagues of land, from Baron de Carondelet to the Marquis de Maison Rouge, bearing date the 26th June, 1797, a genuine grant? Are the signatures of Carondelet thereto genuine? Was said grant executed at the time of its date?

Second. Is the original plan (figurative) and certificate, of which the document marked B, annexed to the deposition of Charles Tessier, is a correct copy, which original purports to be a figurative plan and process-verbal of thirty superficial leagues of land laid out and appropriated for the Marquis de Maison Rouge, on the 14th June, 1797, by Carlos Trudeau, surveyor general, genuine? Is said figurative plan and certificate really in the handwriting of said Carlos Trudeau? Was said plan and certificate made and executed by said Carlos Trudeau at the time when, by its date, it purports to have been made, to wit, on the 14th June, 1797? Is said plan and certificate the same plan and certificate referred to in the grant from Carondelet to Maison Rouge, mentioned in the preceding issue? Was said plan and certificate in existence at the date of said grant from Carondelet to Maison Rouge? Was said plan and certificate the basis of said grant and of the description and location of the lands embraced therein?

Third. Was said Carlos Trudeau guilty of any fraud in relation to said plan and certificate? Did he antedate the same, or cause its being done, or consent to its being done? Is said plan and certificate antedated?

Fourth. Was Carlos Trudeau surveyor general at the time of the date of said plan and certificate?

And thereupon, at the same term, to wit, on the said thirtieth day of May, A. D. 1849, was duly entered of record, in the furtherance of an agreement made in open court, the following

Solution of issues.

May term, 1849.

Wednesday, May 30th, 1849.

D. W. Coxe et al.
vs.
The United States. } No. 132.

The rule entered on the 28th inst., for the submission of four certain

issue of fact therein stated to a jury, came up to-day for hearing; Miles Taylor, esq., of counsel for the complainants, appearing for the plaintiffs in rule, and Thomas J. Durant, esq., of counsel for the U. S., for the defendants; when, by consent of said parties, the submission of said issues to a jury was waived, and it was admitted and agreed as follows:

"That, in the case of the heirs of Henry Turner versus the United States, No. thirty-two of the docket of land causes, (now pending on appeal to the Supreme Court of the United States) the four issues embraced in said rule were propounded in relation to the identical documents therein referred to, and now offered in evidence before the court, and submitted to a jury on the 27th of April, 1848, and that the first, second, and fourth of said issues were, by said jury, established affirmatively, and the third thereof negatively; all which fully appears of record on the minutes of this court."

And be it remembered, that the said cause of D. W. Coxe et. al., plaintiffs, vs. the United States of America, defendants, was thereupon, on the same thirtieth day of May, 1849, taken up for hearing before the court, when the said plaintiffs offered in evidence the various documents embraced in the following

Abstract of evidence.

The following named documents, taken from the records of the case of the heirs of Henry Turner vs. the United States, No. 32 of the docket.

1st. Docs. A and B: original grant to Maison Rouge by Carondelet, June 20th, 1797, and (B) copy of plano figurativo, made by Trudeau, June 14th, 1797.

2d. Depositions of Charles Tessier, Ls. Bringier, L. Bouligny, C. Mazureau, and A. Cruzat.

3d. Act of legislature of La. creating office of surveyor general.

4th. Certified copy of Dinsmore's survey of the 27th March, 1820.

5th. Appointment of Thomas Freeman as surveyor of United States lands, south of Tennessee; which appointment is admitted.

6th. Document A; appointment of John Dinsmore as deputy surveyor, 14th April, 1819, with order of Thomas Freeman to Dinsmore to survey the Maison Rouge grant, and the deposition of Benj. Winchester in relation thereto.

7th. Will of Maison Rouge, (copy of,) Aug. 26th, 1799.

8th. Certified copy of Dinsmore's survey of tract No. 3.

9th. Letter of Morales to Augustus de Breard, (translation of,) Aug. 26th, 1796.

10th. Letter of Fran. Rendon to Maison Rouge, (translation of,) Aug. 12th, 1795.

11th. Passport to Maison Rouge, (Carondelet & Armesto,) translation of,) Jan. 1, 1795.

12th. Judge Bullard's statement, as to payment of taxes, &c., on lands, (copy of.)

Also, the following documents from the record of the case of the

Mayor, Aldermen, &c., of Philadelphia and of New Orleans, vs. the United States, No. 21 of the docket.

13th. Letter of Carondelet to Filhiol, marked No. 9 (A) 2, (with translation,) 2d April, 1795.

14th. Letter from Carondelet to Filhiol, marked No. 10 (A) 1, (with translation,) 2d June, 1796.

15th. Letter from Carondelet to Maison Rouge, marked A 3, (with translation,) 5th Mar., 1797.

16th. Letter from Filhiol to Maison Rouge, marked A 5, (with translation,) 12th Sept. 1796.

17th. Petition of Bastrop to Carondelet, marked A 6, (with translation,) 10 June, 1797.

18th. Copy of Trudeau's certificate and plan of the Bastrop grant, annexed to Bringier's deposition, already offered as doc. D, (No. 32.)

19th. Deposition of Judge Henry Bry, (No. .)

And further, to show the deduction of title from Bouligny. Also, the following documents drawn from the record of the aforementioned case of Turner's heirs.

20th. Vente de terre par Louis Boligny à Daniel Clarke, 1er Juin, 1804.

21st. Sale of property by executors of Dan. Clarke to Henry Turner, 26th Jan., 1814.

22d. Do. by Chew & Relf, executors of Dan. Clarke to D. W. Coxe, (admission as to,) 13th March, 1820.

23d. Agreement of Coxe & Turner, for partition of lots 1 and 2, 17th April, 1819.

24th. Partition between Coxe & Turner, (copy of,) 27th March, 1820.

25th. Sale from Coxe to Turner, of lots Nos. 10 and 11, 19th April, 1820.

26th. Sale from Turner to Coxe, of lots Nos. 20 and 31, 19th April, 1820.

For evidence.

See agreement appearing on folio 23 of this transcript.

And thereupon, on the said thirtieth day of May, A. D. 1849, was duly entered of record the

Trial of cause and judgment,

in the words following, viz:

May term, 1849.

WEDNESDAY, *May 30th*, 1849.

Present, hon. Theo. H. McCaleb.

D. W. COXE et al.
vs. } No. 132.
THE UNITED STATES.

This cause then came regularly up for hearing upon petition and an-

swer, and the evidence adduced by the parties and admitted by the court, and after argument of counsel was submitted to the court.

Judgment.

And the court having maturely considered the same, and being satisfied, from the evidence, that, on the 20th of June, 1797, the Baron de Carondelet, then the Spanish governor of the province of Louisiana, having full power and authority so to do, did make to the Marquis de Maison Rouge, who was then a resident of the said province of Louisiana, a grant of thirty square leagues of land upon the Ouachita river, in that portion of the said province of Louisiana now comprised in the State of Louisiana, and bounded and described as set forth in the map or figurative plan prepared and executed on the fourteenth day of June, 1797, by Carlos Trudeau, the surveyor general of said province, and now on file marked C, to wit:

Plat No. 1, on the right bank of the river Ouachita, commencing or starting five arpents below the mouth of the bayou "Cheniere au tondre," till it reaches the bayou Calumet, with the depth necessary to complete or produce one hundred and forty thousand superficial arpents.

The second plat marked No. 2, on the left bank of the same river Ouachita, to start or begin two leagues below the fort Miro at the point called "Laine," till it reaches the prairie de Lee, with the necessary depth to complete or produce sixty thousand arpents superficial.

The third plat marked No. 3, to start in front of the bayou de la "Loutre," and from thence on a line running south 65° east, to the bayou Siar, which line the bayou Siar, and bayou Barthelemy, and the Ouachita, bound said plat No. 3.

The plat No. 4, on the right bank of the Ouachita, to start in front of the entrance of bayou Barthelemy, running down the river till it reaches the bayou "la Loutre."

Which plats Nos. 3 and 4, with the corresponding or necessary depth, are to complete eight thousand three hundred and forty-four superficial arpents, and, added to the plats Nos. 1 and 2, form together the superficial total of two hundred and eight thousand three hundred and forty-four superficial arpents, equal to the thirty leagues granted as aforesaid, at the rate of two thousand five hundred toises or fathoms per side for each league.

And being further satisfied that the petitioner, Daniel W. Coxe, and the other petitioners holding under him, are the legal and true owners, by title regularly derived from the said Marquis de Maison Rouge, of such portions of said grant as are claimed by them in their said petition; and being satisfied that the said grant was, and is, a good and valid grant from the Spanish Government to the said Marquis de Maison Rouge, and that the same is protected and secured by the treaty made between the United States and the French Republic on the thirtieth day of April, 1803, as well as by the laws of nations and the Constitution and laws of the United States:

This court, acting under and by virtue of the act of Congress of 26th

of May, 1824, entitled "An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims;" and also an act approved on the 17th day of June, 1844, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Missouri and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers," doth order, adjudge, and decree, and it is hereby ordered, adjudged, and decreed, that the petitioner, the said Daniel W. Coxe, and other petitioners holding under him, are the true and legal owners of, and have good title against the United States, in and to all the lands and hereditaments claimed by them in their petition; which lands are described as follows on a map or survey, executed on the 27th of March, 1820, by John Dinsmore, by order of the Surveyor General of the United States, south of the Tennessee river, which map is on file and marked A, to wit:

One marked M. M. R., at the upper end of the grant, and also the lots numbered one, two, three, seven, eight, eleven, twelve, thirteen, fourteen, fifteen, sixteen, eighteen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and sixteen and one-third arpents front, with the entire depth or length of number ten; also numbers twenty-seven, twenty-eight, twenty-nine, thirty, thirty-two, and thirty-three; some of said lots being situated on one side only of the Ouachita river, and others running entirely across the grant on both sides of the said river, as represented in the said plan of survey, and also the undivided three-fourths parts of tracts three and four of the said grant.

It is further ordered, adjudged, and decreed, that in case said lands so claimed by the plaintiffs in their petition, or any part or portion thereof, shall have been sold by the United States, or otherwise disposed of, said plaintiffs shall be, and they are hereby, authorized to enter in any land office in the State of Louisiana, in parcels conformable to sectional divisions and subdivisions, a like quantity of public lands, after the same shall have been offered at public sale.

Judgment rendered 30th May, 1849.

Judgment signed 4th June, 1849.

(Signed,) THEO. H. McCALEB, *U. S. judge.*

And thereafter, and finally, at the same May term, to wit, on the sixth day of June, A. D. 1849, was moved for in open court, granted, and recorded, the following

Order of appeal.

D. W. Coxe et al.
vs.
The United States. } No. 132.

Before the hon. Theo. H. McCaleb.

Wednesday, *June 6th*, 1849.

On motion of Logan Hunton, attorney of the United States for the

eastern district of Louisiana, and of Thomas J. Durant, on the same behalf, and on giving the court to understand and be informed that the United States are injured and aggrieved by the judgment of this honorable court rendered against them at this term, in the matter of Daniel W. Coxe versus The United States, and desire to appeal therefrom:

It is thereupon ordered by the court, that an appeal be allowed in favor of the United States from the judgment aforesaid, returnable to the Supreme Court of the United States at the next term thereof after the date of this order.

And further, and finally, at the same term, to wit, on the seventh day of November, A. D. 1849, was filed of record in the clerk's office the following

Agreement in relation to transcript for Supreme Court.

UNITED STATES OF AMERICA,
Eastern district of Louisiana.

D. W. COXE et al.
vs.
The UNITED STATES. } 132.

In the district court of the United States for the eastern district of Louisiana.

It is mutually agreed herein, that in making up the record of appeal for the Supreme Court of the United States, only such documents as are actually filed with the petition, together with the entries of proceedings had on the trial of the cause, shall be copied in the transcript. And most of the evidence offered on the trial hereof, as set forth in the abstract or list of evidence filed on the 30th May, 1849, being drawn from the records of the case of the Heirs of Henry Turner vs. The United States, (No. 32,) and that of the Mayor, Aldermen, &c., of Philadelphia and New Orleans vs. the United States, (No. 21,) both of which cases are now filed, on appeal, in the Supreme Court of the United States; it is further agreed and understood, that such records shall be admitted in evidence in the said Supreme Court, so far as the same are specially referred to in the aforementioned abstract of evidence offered in this case.

(Signed) JANIN & TAYLOR, *for plaintiffs.*
New Orleans, 7th November, 1849.

(Signed) LOGAN HUNTON,
U. S. Attorney, east. dist. La.

See abstract of evidence referred to on page 15—17 of this transcript.

Finis.

UNITED STATES OF AMERICA,
Eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United

States, sitting at New Orleans, in and for said district, do hereby certify, that the foregoing twenty-three folios of manuscript contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters, as they now remain on file and of record in a certain cause in chancery, wherein Daniel W. Coxe et al. are plaintiffs, and the United States of America are defendants. No. 132 of the land docket of said court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, this twenty-second day of September, one thousand eight hundred and forty-nine, and the 74th year of American independence. [SEAL.]

N. R. JENNINGS,
Clerk U. S. dist. court, east. dist. of La.

I, Theodore H. McCaleb, judge of the district court of the United States, for the eastern district of Louisiana, do certify, that N. R. Jennings, who subscribed the above certificate, was at the time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

Witness my hand and seal, at New Orleans, this 24th day of September, A. D. 1849.

THEO. H. McCALEB. [SEAL.]

THE UNITED STATES OF AMERICA.

To Daniel W. Coxe, of the city of Philadelphia, and others holding under him, plaintiffs and appellees, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an order of appeal granted on the sixth day of June, 1849, by the district court of the United States, in and for the eastern district of Louisiana, in a certain cause in chancery, under the acts approved May 26th, 1824, and June 17th, 1844, entitled (No. 132) D. W. Coxe et al. vs. The United States, wherein the said United States of America are appellants, and you are appellees, to show cause, if any there be, why the judgment rendered against the appellants, as in the said order of appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness hereto my hand, and the seal of the said court, at the city of New Orleans, this twenty-fourth day of September, A. D. 1849.

THEO. H. McCALEB, [SEAL.]
Judge of U. S. district court, east. dist. of La.

L. JANIN & M. TAYLOR, *Attorneys.*

Attest: ROB. M. LUSHER, *Clerk.*

Marshal's return.

Received October 19, 1849, and on the 24th October, 1849, served a copy of the within citation of appeal on L. Janin, esq., one of the attorneys for the plaintiffs, by handing the same to him in person at New Orleans, and who at the time accepted service for the plaintiffs.

Ret'd Oct. 30, 1849. M. M. THOMAS,
Dep. U. S. marshal, eastern district, La.

Return registered Oct. 30, 1849.
ROB. M. LUSHER, *Clerk.*

The answer of Daniel W. Coxe, a citizen of the State of Pennsylvania, to the petition of the United States, and the call in warranty of Richard King, humbly showeth: That this respondent denies all and singular the allegations contained in the petition of the United States, and in the answer and call in warranty of Richard King, except so far as they are hereinafter specially admitted; that it is true that he has sold the tract of land described in the petition to the defendant, with a limited warranty, as will appear from the deed of sale referred to in the answer of the said Richard King. Your respondent avers that he had, at the time of his aforesaid sale to defendant, and the defendant now has, a good and valid title to the said tract of land, the same being a part of a grant of land, made on the 20th June, 1797, by the Baron de Carondelet, then the Spanish governor of the province of Louisiana, to the Marquis de Maison Rouge, the ownership whereof was subsequently acquired by your respondent and the late Henry Turner, and a partition in kind having taken place between the said Henry Turner and your respondent, by which the aforesaid tract, now held and owned by said King, fell to the share of this respondent. Your respondent shows that he has heretofore sold a considerable portion of the Maison Rouge grant, and still owns, and is in possession of, a great part thereof, and that his title to a portion of the same so sold, or still owned and possessed by him, was acquired in the manner following, viz.—That on the 17th March, 1795, the Baron de Carondelet, then the military and civil governor of the provinces of Louisiana and West Florida, Don Francis Rendon, the intendant of the army and deputy superintendent of the royal domains in the said provinces, and Don Joseph de Orne, principal accountant of the royal treasury of the said provinces, and performing the duties of fiscal of the royal treasury, entered into a contract with the Marquis de Maison Rouge, a French emigrant, who had proposed to them to bring into said province thirty emigrant families, for the purpose of forming an establishment upon the lands lying on the Washita river, by which contract they bound the royal treasury to defray the expenses of transportation of said families, to pay to them besides from one to four hundred dollars a family, and to grant them tracts of land in the proportions specified in said contract; that said contract was approved by the King of Spain on the 4th July, 1795.

That in the beginning of June, 1797, the said Marquis de Maison Rouge had nearly completed the establishment of said thirty families; that never having received any personal advantage from said establishment, nor any reward from the government for his exertions and expenses in making the same, and wishing to make an establishment for his own account and benefit, he applied to the said Governor Carondelet for a grant of land; that thereupon the Governor directed Don Carlos Trudeau, the royal surveyor for the province of Louisiana, to select for the said Marquis de Maison Rouge, and make a plan of, thirty square leagues of land lying on the waters of the Washita, and supposed to be vacant; that said Carlos Trudeau made the selection and plan as required, on the 14th June, 1797, and annexed to the same a certificate setting forth that the four tracts of land therein represented may contain thirty superficial leagues, at the rate of two thousand five hundred toises for each side of a square league, equal to two hundred and eight thousand three hundred and forty-four superficial arpens; that each of the said four tracts of land is described by natural boundaries or courses and distances, which are clearly shown on said plan, and explained in said certificate; that [it] is well understood that any portion of land included in the said four tracts, and which are possessed by other persons in virtue of complete titles, called titles in form, or by incomplete titles, called first decrees of concession, shall not be counted in computing said thirty leagues; that, on the contrary, the said Marquis de Maison Rouge has promised not to do anything to the prejudice of these possessors, but to maintain and support them in their rights; and that if, on account of such previous occupants, the said thirty leagues shall suffer any diminution, the said Marquis de Mason Rouge shall have the benefit of supplying the deficiency from other vacant lands.

That the said surveyor general reported said plan and certificate to the Governor, who thereupon, and with express reference to said plan, made, on the 20th June, 1797, to the said Marquis de Maison Rouge, a complete grant of the thirty square leagues of land designated on said plan, which grant being rendered from the Spanish into the English language, is in the words following:

"The Baron de Carondelet, knight of the order of St. John, marshal de camp of the royal armies, governor general, vice patron of the provinces of Louisiana and West Florida, inspector of troops, &c., forasmuch as the Marquis de Maison Rouge is near completing the establishment of the Washita, which he was authorized to make for thirty families by the royal order of July 14, 1795, and desirous to remove, for the future, all doubt respecting other families or new colonists who may come to establish themselves, we destine and appropriate conclusively, for the establishment of the aforesaid Marquis de Maison Rouge, by virtue of the powers granted to us by the King, the thirty superficial leagues marked in the plan annexed to the head of this instrument, with the limits and boundaries designated, with our approbation, by the surveyor general, Don Charles Lareau Trudeau, under the terms stipu-

lated and contracted for by the said Marquis de Maison Rouge; and that it may at all times stand good, we give the present, signed with our hand, sealed with our seal at arms, and countersigned by the underwritten honorary commissary of war and secretary of his Majesty for this commandancy general.

The BARON DE CARONDELET,
ANDRE LOPEZ ARMESTO.

NEW ORLEANS, *the 20th of June*, 1797.

"*Note.*—That, in conformity with his contract, the Marquis de Maison Rouge is not to admit or establish any American in the lands included in his grant.

The BARON DE CARONDELET."

Your respondent avers, that it appears, from the premises, that the said grant was made in consideration that the establishment which the said Maison Rouge had been authorized to make by the said contract of July 14, 1795, was nearly completed, and as a reward for the services thereby rendered by the said Maison Rouge to the government, that it was intended thereby to prevent all conflicts with new colonists; that the only terms and conditions stipulated and contracted for by the said Maison Rouge were those mentioned in said certificate of Carlos Trudeau, viz., not to interfere with older settlers under titles, but to take the complement of the thirty leagues elsewhere; and, also, that the said Maison Rouge was not to admit or establish any Americans on the lands included in his aforesaid grant, and that the said grant was absolute and indefeasible.

Respondent shows that, from the premises, it appears, that by and from the date of said grant of June 20, 1797, the lands therein granted ceased to be a part of the royal domain, and became the private and indefeasible property of said Maison Rouge; and that the United States of America acquired no title or right of ownership to the same by the treaty of cession.

Respondent shows that the said Marquis de Maison Rouge executed a nuncupative testament by public act of the 26th of August, 1799, before Peter Pedesclaux, then a notary public at New Orleans, and that shortly afterwards he departed this life; that, by said testament, he nominated Louis Bouligny his universal legatee, whereby the said Louis Bouligny became the owner of the lands granted to said Maison Rouge as aforesaid; that said will having been duly ordered to be executed by the competent authority, and said Louis Bouligny having taken possession of the estate of said Maison Rouge, he conveyed his entire interest in the aforesaid grant to Daniel Clarke, by acts of sale of the 16th July, 1803, 1st of June, 1804, and 12th of January, 1812; and that, by act of sale of the 25th of February, 1811, and 19th of May, 1812, the said Daniel Clarke conveyed the undivided half of said grant to Wade Hampton; that the said Daniel Clarke departed this life at New Orleans, on the day of August, 1813, leaving a will, by

which he instituted his mother, Mary Clarke, his universal heir and legatee, and appointed Richard Relfe and Beverly Chew his executors; that said will having been ordered to be executed by the court of probates of the parish of Orleans, the said Chew and Relfe, as executors as aforesaid, and as attorneys in fact of said Mary Clarke, sold to Henry Turner, by deed of sale of the 26th of January, 1814, one undivided fourth part of said grant, the estate of said Daniel Clarke thus retaining one undivided fourth thereof; that, by an act of sale of April 22d, 1817, the said Wade Hampton sold to Chew & Relf, individually, and also as executors of Daniel Clarke, one undivided fourth of said grant, the said Hampton thus still retaining one undivided fourth; that by an act of sale of March 2, 1819, the said Wade Hampton sold to your respondent his remaining undivided fourth of said grant; and that by another act of same date, the said Chew & Relf, as executors of Daniel Clark, and also as attorney in fact of Mary Clark, Daniel Clark's universal legatee, sold to this respondent one undivided half of said grant, being composed of the undivided fourth, which, by the aforesaid act of April 22, 1817, they had acquired from Wade Hampton, and of one-fourth, which was the property of said Clark at the time of his death.

Your respondent shows that, by the aforesaid acts, he became the joint proprietor, with said Henry Turner, of the entire Maison Rouge grant, to wit, your respondent in the proportion of three-fourths, and said Henry Turner in the proportion of one-fourth; and that by an act of March 27, 1820, your respondent and the said Henry Turner made a partition, in kind, of the land embraced in said grant.

Respondent shows, that by order of Thomas Freeman, late surveyor general of the United States south of the Tennessee river, John Dinsmore, a deputy surveyor of the United States, made, on the 27th of March, 1820, an actual survey of the aforesaid Maison Rouge grant, in which he closely followed the aforesaid plan and certificate of Carlos Trudeaux, of the 14th of June, 1797; that the said survey was returned to, and approved by, said surveyor general; that on said survey the said grant is divided into three distinct tracts, tract No. 1, lying on the west side of the Ouachita river, containing 140,000 arpens, equal to 118,479$\frac{1}{3}$ acres; tract No. 2, lying on the east side of the same river, containing 60,000 arpens, equal to 50,777 acres; and tract No. 3, lying on bayous de Siara, Bartholomew, and the Washita river, containing 10,845$\frac{4\,0}{1\,0\,0}$ arpens, equal to 9,178$\frac{2\,5}{1\,0\,0}$ acres; that thereafter, your respondent and the said Henry Turner procured a copy to be made, by said Dinsmore, of said survey, with suitable subdivisions of tracts No. 1 and 2; that on said plan, tract No. 1 is subdivided into 31 lots, and tract No. 2 into 27 lots; that the aforesaid partition between Henry Turner and your respondent, of March 27, 1820, was based upon said plan, a certified copy of which has been deposited in the office of the parish of Washita, since the day 18 for reference and inspection; that since then your respondent has made numerous sales, in conformity with said plan, among which is

lated and contracted for by the said Marquis de Maison Rouge; and that it may at all times stand good, we give the present, signed with our hand, sealed with our seal at arms, and countersigned by the underwritten honorary commissary of war and secretary of his Majesty for this commandancy general.

The BARON DE CARONDELET,
ANDRE LOPEZ ARMESTO.

NEW ORLEANS, *the 20th of June*, 1797.

"*Note.*—That, in conformity with his contract, the Marquis de Maison Rouge is not to admit or establish any American in the lands included in his grant.

The BARON DE CARONDELET."

Your respondent avers, that it appears, from the premises, that the said grant was made in consideration that the establishment which the said Maison Rouge had been authorized to make by the said contract of July 14, 1795, was nearly completed, and as a reward for the services thereby rendered by the said Maison Rouge to the government, that it was intended thereby to prevent all conflicts with new colonists; that the only terms and conditions stipulated and contracted for by the said Maison Rouge were those mentioned in said certificate of Carlos Trudeau, viz., not to interfere with older settlers under titles, but to take the complement of the thirty leagues elsewhere; and, also, that the said Maison Rouge was not to admit or establish any Americans on the lands included in his aforesaid grant, and that the said grant was absolute and indefeasible.

Respondent shows that, from the premises, it appears, that by and from the date of said grant of June 20, 1797, the lands therein granted ceased to be a part of the royal domain, and became the private and indefeasible property of said Maison Rouge; and that the United States of America acquired no title or right of ownership to the same by the treaty of cession.

Respondent shows that the said Marquis de Maison Rouge executed a nuncupative testament by public act of the 26th of August, 1799, before Peter Pedesclaux, then a notary public at New Orleans, and that shortly afterwards he departed this life; that, by said testament, he nominated Louis Bouligny his universal legatee, whereby the said Louis Bouligny became the owner of the lands granted to said Maison Rouge as aforesaid; that said will having been duly ordered to be executed by the competent authority, and said Louis Bouligny having taken possession of the estate of said Maison Rouge, he conveyed his entire interest in the aforesaid grant to Daniel Clarke, by acts of sale of the 16th July, 1803, 1st of June, 1804, and 12th of January, 1812; and that, by act of sale of the 25th of February, 1811, and 19th of May, 1812, the said Daniel Clarke conveyed the undivided half of said grant to Wade Hampton; that the said Daniel Clarke departed this life at New Orleans, on the day of August, 1813, leaving a will, by

which he instituted his mother, Mary Clarke, his universal heir and legatee, and appointed Richard Relfe and Beverly Chew his executors; that said will having been ordered to be executed by the court of probates of the parish of Orleans, the said Chew and Relfe, as executors as aforesaid, and as attorneys in fact of said Mary Clarke, sold to Henry Turner, by deed of sale of the 26th of January, 1814, one undivided fourth part of said grant, the estate of said Daniel Clarke thus retaining one undivided fourth thereof; that, by an act of sale of April 22d, 1817, the said Wade Hampton sold to Chew & Relf, individually, and also as executors of Daniel Clarke, one undivided fourth of said grant, the said Hampton thus still retaining one undivided fourth; that by an act of sale of March 2, 1819, the said Wade Hampton sold to your respondent his remaining undivided fourth of said grant; and that by another act of same date, the said Chew & Relf, as executors of Daniel Clark, and also as attorney in fact of Mary Clark, Daniel Clark's universal legatee, sold to this respondent one undivided half of said grant, being composed of the undivided fourth, which, by the aforesaid act of April 22, 1817, they had acquired from Wade Hampton, and of one-fourth, which was the property of said Clark at the time of his death.

Your respondent shows that, by the aforesaid acts, he became the joint proprietor, with said Henry Turner, of the entire Maison Rouge grant, to wit, your respondent in the proportion of three-fourths, and said Henry Turner in the proportion of one-fourth; and that by an act of March 27, 1820, your respondent and the said Henry Turner made a partition, in kind, of the land embraced in said grant.

Respondent shows, that by order of Thomas Freeman, late surveyor general of the United States south of the Tennessee river, John Dinsmore, a deputy surveyor of the United States, made, on the 27th of March, 1820, an actual survey of the aforesaid Maison Rouge grant, in which he closely followed the aforesaid plan and certificate of Carlos Trudeaux, of the 14th of June, 1797; that the said survey was returned to, and approved by, said surveyor general; that on said survey the said grant is divided into three distinct tracts, tract No. 1, lying on the west side of the Ouachita river, containing 140,000 arpens, equal to 118,479⅓ acres; tract No. 2, lying on the east side of the same river, containing 60,000 arpens, equal to 50,777 acres; and tract No. 3, lying on bayous de Siara, Bartholomew, and the Washita river, containing $10{,}845\frac{40}{100}$ arpens, equal to $9{,}178\frac{25}{100}$ acres; that thereafter, your respondent and the said Henry Turner procured a copy to be made, by said Dinsmore, of said survey, with suitable subdivisions of tracts No. 1 and 2; that on said plan, tract No. 1 is subdivided into 31 lots, and tract No. 2 into 27 lots; that the aforesaid partition between Henry Turner and your respondent, of March 27, 1820, was based upon said plan, a certified copy of which has been deposited in the office of the parish of Washita, since the day 18 for reference and inspection; that since then your respondent has made numerous sales, in conformity with said plan, among which is

the sale of lot No. 19, on the west side of the Washita river, mentioned in the answer of the said defendant, Richard King; that the annexed schedule, A, exhibits the numbers and the approximative contents of the lots which fell respectively to the share of your respondent, and that from said schedule it appears that your respondent is still the owner of lots Nos. 3, 20, 21, 12, 13, 14, 15, 16, 21, 22, 29, 32, 33, 18 less 500 arpens, and 17 in tract No. 1, and of lot 2, south $\frac{1}{3}$ of 3, east $\frac{1}{2}$ of 12, east $\frac{1}{2}$ of 13, and most of 16, No. 18, 21, 20, 17, most of 22, and about 800 arpens, comprised in the Etier claim in Nos. 23 and 24, in tract No. 2, besides his undivided interest in tract No. 3.

Your respondent shows, that in conformity with the acts of Congress, which authorized claimants of lands in Louisiana, under complete French and Spanish grants, to lay their claims before the commissioners, for the purpose of ascertaining and discriminating the lands which had been finally severed from the domain, from those which were styled public property, or the title to which required to be confirmed, the aforesaid Louis Bouligny filed said grant with the board of commissioners for the western district of Louisiana, who, on the 14th December, 1812, made a report thereon, in which they recognised the same as valid and complete grants, and recommended the same for confirmation; and that by the first section of an act of Congress, of the 29th April, 1816, all claims in the aforesaid report, arranged under class B, of which the aforesaid grant was one, and which the commissioners had recommended for confirmation, were confirmed, with the proviso "that under no one claim shall any person or persons be entitled, under this act, to more than the quantity contained in a league square."

Your respondent shows, that although the aforesaid grant required no confirmation, still, for the purpose of quieting his title, he made long continued efforts for many years to obtain from the Congress of the United States the formal recognition of the same; that, notwithstanding numerous favorable reports on the same by committees, and the passage of bills by one or the other of the houses of Congress for the confirmation of said claims, no final action was ever had on the application of the respondent; and that finally, with a view of allaying the apprehensions of some of his vendees, and to procure more authentic proof of the merits of his title, he took out a patent on the 20th of December, 1842, for the league square, to which the confirmation by said act of April 29, 1816, was confirmed, it being expressly understood, and so declared in an opinion of the attorney general of the United States, dated the 22d of December, 1841, and in the instructions by the Commissioner of the General Land Office to the surveyor general of Louisiana, of December 23, 1841—that, by so doing, your respondent neither waived his rights to the remainder of the grant, nor was to be precluded from applying for its confirmation to Congress, or from asserting its validity in courts of justice.

And now your respondent, assuming the character of plaintiff in

reconvention, respectfully represents, that he and the said Henry Turner, relying on the validity of said grant, and on the justice of the United States, have expended large sums of money in the purchase of said grant; that your respondent has sold about 94,450 arpens thereof, which are now occupied and improved by numerous citizens, whose titles ought to be quieted; that your respondent has for many years paid taxes on said land, made roads thereon, and is yet the owner, and in the actual possession, of about 95,000 arpens thereof, parts of which are cleared; that the United States were bound to respect said grant, it having been private property at the time of the cession of Louisiana; that by refusing to recognise the same as the lawful property of this respondent, the United States have inflicted heavy injury upon him; that its value is thereby greatly depreciated, and the sale of parts of the same rendered hazardous and disadvantageous, and this respondent is disturbed in the possession and enjoyment of the part thereof still retained by him: wherefore your respondent prays that the said grant, made by the Baron de Carondelet, on the 20th of June, 1797, to the Marquis de Maison Rouge, may be declared valid; that the said Richard King and your respondent may be recognised to be the lawful owners of the parts of the said grants held by them, as described in the answer of said Richard King, and in said schedule A, and that they may be quieted in the ownership and possession of the same; and that the United States may be ordered to desist from treating and considering any part of said grant, as designated on the said survey of John Dinsmore, of the 27th of March, 1820, as public property; and your respondent prays for his costs, and all such other and further relief as the nature of this case may require, and to equity and justice appertain.

Signed, L. JANIN, *Attorney.*

Louis Janin being duly sworn deposeth, that he is counsel for D. W. Coxe in the above suit, and the only counsel employed in the defence of said suit in the circuit court; the defendant King having consented to leave to his warrantor Coxe the entire management of the case. Affiant further saith that, having made a motion on the 9th instant, to the effect that this case be tried de novo, which motion he now has expressed in the words appearing at the head of the affidavit, and having addressed an argument to the court in support of said motion, the court directed him to state concisely, in a brief, the matters which had been proved at the trial of this case in the circuit court by oral testimony, and had not been taken down in writing; as also the matters which, in the event of a new trial, he expected to prove. That thereupon the affiant requested the court to be permitted to make said statement under oath.

And said request having been granted, and the presiding judge of this court having desired, with a view of obtaining a full insight into the merits of the application, to be informed of the manner in which this case was conducted in this court, the affiant deposeth, that previous to the trial thereof he wrote to R. S. Coxe, esq., of Washington city, who was employed to try said case for the defendants in the Supreme Court, that

this case was a petitory action, and therefore a suit at law; that under the decision of the Supreme Court of the United States, in the case of Parsons vs. Bedford, 3 Peters, 433, the oral testimony received at the trial of such cases was not permitted to be taken down in writing; that such had always been the practice of the federal court in New Orleans; that from the judgment of the circuit court in said case, a writ of error and not an appeal would lie; that the Supreme Court would therefore not reinvestigate the facts; that under the practice of the said circuit court, either party had a right to call for a jury; but that if neither did so, the whole case was to be decided by the court, and that then the finding of the facts by the court would be considered by the Supreme Court as equivalent to a special verdict; that having requested the said R. S. Coxe to express his views on this subject, the said Coxe replied, that he was inclined to agree with the affiant; and that thereupon the affiant prepared and conducted this case under the persuasion that the facts of this case would not be reviewed by the Supreme Court, except so far as they might be brought up by bills of exception, a special verdict, or an agreed case; that therefore the oral testimony could not be taken down in writing, and that it would be sufficient to satisfy the circuit court of the correctness of the facts relied on by the defence.

Affiant further showeth, that on 1st June, 1843, the said D. W. Coxe, for the purpose of expediting the trial of this case, made an agreement with the district attorney, (p. 79 of the printed record,) by which he admitted certain ex parte evidence, procured and printed by J. F. Girod in the year 1820; that in said testimony it is intimated that an important document relied on by the defence, to wit, a plan and certificate made by Laveau Trudeau, dated the 14th of June, 1797, was antedated, and was in reality only made in 1802; and that in said document Laveau Tradeau pretended to have surveyed said land for Maison Rouge, whereas he had never been in Ouachita; that with a view of rebutting said testimony the affiant exhibited both written and oral testimony; that by referring to the fee book of the clerk of this court, under date of the 1st of July, 1843, it will appear that 6 summons were on that day issued for witnesses; that on the 3rd of July the affiant made the following motion, which is in the minutes of this court, to wit:

"On motion of Ls. Janin, esq., of counsel for D. W. Coxe, it is ordered, that Ls. Bringier, the surveyor general of the State of La., bring into court on Wednesday, the 5th of July instant, at 10 o'clock, a. m., the plan of the grant to the Marquis de Maison Rouge, said plan and the accompanying certificate being made by Carlos Trudeau, late surveyor general of the province of La., and dated the 14th of June, 1797."

That from other entries in the fee book it is shown that 6 witnesses were summoned on the 1st of July; that on the 3rd July 7 witnesses were sworn; and that on the same day two attachments were issued for witnesses; that in the book kept by the clerk, in which counsel register the names of the witnesses to be summoned, is the following entry, in the handwriting of the affiant:

Witnesses for defendants and warrantors.

UNITED STATES
vs.
KING.

Antoine Cruzat, Joseph Pelié, A. S. Phelps, Peter Laidlaw, Denis Prieur, Beverly Chew, Hy. A. Bullard, F. X. Martin.

That across this list of witnesses is written, in the handwriting of H. B. Page, who was then the deputy clerk of this court, "Issued, and charged in mem., July 3, '43;" that the affiant verily believes that at the trial most of the aforesaid witnesses were present; that besides them Louis Bouligny, Louis Bringier, and perhaps also Judge Benjamin Winchester and D. Morphy were present; that the deposition of Louis Bouligny was offered but rejected by the court, and that a bill of exceptions was taken by the defendant, (p. 40.)

And the affiant further deposeth, that a certain number of the aforesaid witnesses were examined at said trial; that affiant distinctly recollects having examined them concerning the official and private character of Carlos Laveau Trudeau, the credit deserved by his official acts, and the purchase of the papers left at his decease by the State of Louisiana in the year 1817, since when they have formed part of the archives of the State; and he further recollects that it was proved by said witnesses that the said plan of June 14th, 1797, was not, as pretended by the witnesses produced by J. F. Girod, an actual survey, but a sketch, or what Spanish surveyors called a "plano figurativo," that is, a general outline of a large tract of land sketched on a map of the country, and intended for a guide to a subsequent survey, analogous to the entries known in the other States of the Union; that such "planos figurativos" were by no means uncommon in the Spanish times; that any one in the slightest degree acquainted with Laveau Trudeau's numerous surveys, still extant, would immediately recognise this plan as not intended by him for a survey; that the mistake of J. F. Girod, and his witnesses, probably originated in an erroneous translation of Laveau Trudeau's certificate appended to his said plan; that said translation was made by L. Chacheré, the translator to the board of commissioners of the western district of Louisiana, in the year 1812, and is printed in Girod's pamphlet, (p. 106 of the record;) that said erroneous translation commences thus: "Carlos Trudeau, surveyor general, La., certifies to have *measured*, in favor of Marquis of Maison Rouge," &c., &c.; whereas in the Spanish original no word corresponding to the word "measuring," or implying in the remotest manner an actual operation on the ground, is to be found.

And the affiant further sheweth, that it is at present impossible for him to state which or how many of said witnesses were examined concerning said particular facts; that his recollections *is* the less distinct, because on these points he did not press the testimony any farther, as soon as he felt assured that the district judge, who alone presided at the trial, was convinced of the truth of the said statement; that the said district judge

being extremely familiar with the colonial titles of Louisiana and their history, the affiant considered that he was no doubt acquainted with the unsullied character of Laveau Trudeau, as also with the usual form of his official operations, and that therefore less copious testimony would appear sufficient to said judge than would have been procured if the affiant had entertained the belief that the Supreme Court would enquire into these facts.

And the affiant further deposeth, that owing to the above expressed view entertained of the practice of this court in cases at law, no part of the said oral testimony was reduced to writing; and he further sheweth that all the aforesaid witnesses are still alive, and reside and are now in the city of New Orleans; that with the exception of Denis Prieur, Peter Laidlaw, Beverly Chew, and D. Morphy, whom the affiant had cited to prove other matters, all of them will undoubtedly, in the affiant's opinion, confirm the foregoing statements concerning the character of said Laveau Trudeau, and the true purport of said documents of June 17th, 1797; and the affiant prays that, if in the opinion of the court it should be meet and proper for the furtherance of justice, they may be examined on the said points when and wherever the court may direct.

And the affiant further deposeth, that if this case be tried de novo, he verily believes that the defendants will be able to prove in a conclusive manner that Carlos Laveau Trudeau was not only a very competent public officer, but a man of great private worth and purity of life; that he was, during nearly 23 years, and up to the cession of Louisiana, the surveyor general of the province of Louisiana; that afterwards he was elected recorder of New Orleans; that he died about 1816, being then perhaps still recorder, (of which latter fact the affiant is however not quite positive;) that he enjoyed, before and after the cession of Louisiana, the esteem and confidence of his fellow citizens in the highest degree; that with the means of securing to himself and his family a large fortune, he lived and died in extremely moderate circumstances; that his official acts are the foundation of, or at least important links in, the titles of many of the most valuable properties in Louisiana; that after his death the legislature of Louisiana purchased for $6,000 all his papers, (see act of the legislature, of Feb. 22nd, 1817,) which were first deposited in the office of the secretary of State, and afterwards in the office of the surveyor general of the State, (act of the legislature, of March 18th, 1818;) that in a very large number of suits about real estate in the courts of the State of Louisiana, Laveau Trudeau's surveys, plans, and certificates, have been discussed and scrutinized; and that in no instance was his integrity, purity, or disinterestedness ever questioned.

That up to the year 1798, when the power of granting land was taken from the governor and vested in the intendant of the province, a survey was not necessarily preliminary to a grant of land, and that an extremely large number of claims have been confirmed by the United States which never were surveyed under the Spanish government.

That the mode of granting lands in Louisiana was quite different from

that prevalent in Florida, which was first introduced by the regulations of Intendant Morales; that it was altogether dissimilar to that prevailing in other Spanish colonies; that it was established by the French government of Louisiana, and maintained by Spain as she found it, when she acquired the colony; that this whole subject is not governed by written laws, but by colonial customs, the evidence of which is to be found in the often repeated and long and uniformly continued acts of the colonial government; and that these acts were perhaps never disavowed by the home government.

That the Spanish government of Louisiana was not a corrupt or venal government; that the province of Louisiana, far from being profitable, was a source of constant expense to Spain, and cherished only for political considerations; that Louisiana was governed with peculiar and truly patriarchal lenity and justice; that bribery in the higher offices of the government, and fraud in land matters, are unknown in the history of Spanish Louisiana; that Baron Carondelet was a man of high character, and greatly in the confidence of his sovereign; that the Spanish government generally granted lands with much facility and liberality, and without much regard to strict forms, and that this was particularly the case during the latter part of Carondelet's administration, owing to political reasons, susceptible of explanation at the proper time.

The affiant further expects to show, that the frauds by which the confirmation or pretended Spanish grants in Louisiana was obtained, or at least sought, have all been committed since the cession of Louisiana, and are principally attributable to the incompetency of some, and the connivance and participation of other persons, who have at various times been officers of the land offices of the United States in Louisiana.

The affiant further showeth, that he intends to apply in the name of said D. W. Coxe to this court, or to the chancery side of this court, to relieve said Coxe from the agreement entered into by him as aforesaid on the 1st of June, 1843, by which said testimony, impeaching the plan and certificate of Laveau Trudeau, was admitted, which consent was made under the following circumstances, to wit: That at the instance of the said D. W. Coxe the President directed the district attorney of the United States to bring a suit for the purpose of testing and settling the title to the land claimed under the Maison Rouge grant; that immediately thereafter the said D. W. Coxe, who resides in the city of Philadelphia, arrived at New Orleans; that he laid before the said district attorney all the information in his possession concerning said tract, including the pamphlet of J. F. Girod, and the aforesaid evidence; that thereupon this suit was instituted on the 13th of Feb., 1843; that the said Coxe remained in New Orleans under the expectation that said suit would be tried; that towards the latter part of May, 1843, the said district attorney peremptorily refused to try said case until he should have had more time to collect whatever legal evidence might be in existence in opposition to the claim, and particularly in support of the charges contained in the aforesaid pamphlet; that said D. W. Coxe was then 72 or 74 years of age, and away from his home and business;

that the season was approaching which in New Orleans is uncongenial to persons not enured to the climate; that the said Coxe became profoundly discouraged, as he saw before him the certainty of a further delay of years before he could expect the settlement of this matter, which, since the year 1819, had been the subject of his unremitting efforts; that under this state of feelings he proposed to said district attorney to submit to almost any terms, provided the said case could be tried during that season; that thereupon the said district attorney drew up, and the said Coxe signed, said agreement of June 1st, 1843, by which, while the United States made no concession whatever, the said Coxe agreed to admit said Girod's testimony, without objection either as to form or substance; as also any other matters relating to the said Maison Rouge grant, though not possessing the form or the character of legal evidence, which might at any time have been alleged or presented to Congress, or in any judicial proceedings; that this consent was given under the expectation, and for the reason, that it would lead in the final disposal of said case, in which expectation the said Coxe is now disappointed, and that if this case is tried de novo, and the aforesaid consent is permitted to be withdrawn, the United States will have the same opportunity which they had in 1843 of insisting on the admissibility of said testimony, or of proving the matters therein stated.

And the affiant further showeth, that the aforesaid consents were made by him under the instructions of said D. W. Coxe, though contrary to affiant's opinion; and the affiant further adds, that he does not wish to be understood as implying that the said D. W. Coxe has the least ground of complaint against said district attorney, and that, on the contrary, it was said Coxe who pressed the trial of this case.

And the affiant further showeth, that if said consent be withdrawn he expects to show that the proceedings under which the said testimony was taken is null and void by the law of Louisiana; that it cannot bind said Coxe, because they were carried without his knowledge, and without his having been cited; and that the citation addressed to Hy. Bry does not bind said Coxe, because said Hy. Bry had not the power of attorney of said Coxe, and was not authorized to represent him in any judicial proceedings.

And the affiant further showeth, that he has been informed, since the late decision of the Supreme Court, by the said Hy. Bry, who is an old and respectable inhabitant of the parish of Ouachita, that as soon as he received the citation in the above mentioned proceedings, he replied in writing that, not being authorized to represent the said Coxe and Turner in said proceedings, he declined to take cognizance therefor to appear for said parties, and that he placed said answer on record, where he presumes the same still is.

And the affiant further showeth, that he had no knowledge whatever of this fact until he was informed of it as aforesaid by said Bry; and that in the copy of the said proceedings printed as an appendix to the pamphlet of said Girod, and introduced as evidence in this case, the answer of said Bry is not copied.

And the affiant further expects to prove, that said testimony is untrue in many and essential particulars, concerning which the witnesses from their situation and opportunities must have had better information than they were willing to impart; that the statements of the said J. F. Girod and of two of the witnesses were in a great measure based upon the supposed discovery that Laveau Trudeau had given a certificate declaring that he had *surveyed* said lands for Maison Rouge; that several of said witnesses had a direct interest in conflict with the Maison Rouge claim; and that if it be true, as stated by the witness McLaughlin, that several old inhabitants of Ouachita, after the cession of Louisiana, had fabricated sales of lands never granted by the Spanish government, it seems highly probable that Filhiol, one of said witnesses, was one of them, from authentic documents in the affiant's possession, which he is ready to produce.

And the affiant showeth, that the merits of the Maison Rouge grant must necessarily be investigated anew, inasmuch as the said D. W. Coxe, and the heirs of Turner, have sold a great and very valuable part of the said grant to many persons, some of whom have for a considerable number of years kept possession of, and improved the land so purchased by them; that said heirs of Henry Turner and purchasers are not affected by the decision made, or to be made, in the present suit; and that they intend to bring suit for the confirmation of their said land to the district court of the United States for the district of Louisiana, under the act of Congress of June 17, 1844.

And finally, the affiant showeth, that he expects to prove by Louis Bouligny, the person who is charged with having induced said Carlos Laveau Trudeau to antedate the above mentioned plano figurativo, that no part of said charges has the slightest foundation in truth; and that said document was found in the trunk of said Marquis de Maison Rouge after his death in 1799.

(Sig'd) LS. JANIN.

Sworn to and subscribed before me, New Orleans, May 13th, 1845.

For D. N. HENNEN, *Clerk*,

(Sig'd) J. McCULLOCH, *D'y cl'k*.

Translation from the Spanish of document marked A.

The Baron de Carondelet, knight of the religion of St. John, lieutenant general of the royal armies, governor general, vice patron of the province of Louisiana, occidental Florida, and inspector of the troops, &c.

Whereas the Marquis of Maison Rouge is ready to complete the establishment on the Ouachita, agreeably to the royal order received by him on the 14th July, 1795, for thirty families, and wishing to avoid all sort of difficulties, in relation to these new farmers who may come to establish themselves upon said land, we, therefore, design and appropriate, definitively, according to the rights granted to us by the King, the thirty leagues of land in superficie, which are proved on the

figurative plan which is to be found at the head of this title, with the boundaries and limits herein designated, with my approval by the surveyor general, Don Charles de Laveau Trudeau, under the terms and conditions that the said Marquis de Maison Rouge has contracted and stipulated; and that the same may be at all times good and valid, we give him the present title.

Signed with our hand, and sealed with the seal of our arms, paraphed by the undersigned, honorary commissary of war and secre-
[SEAL.] tary of his Catholic Majesty of this general commandance, at New Orleans, the twentieth day of June, seventeen hundred and ninety-seven.

Signed, EL BARON DE CARONDELET.
Signed, DON ANDRE LOPEZ ARMESTO.

NOTA.—That, in conformity with his contract, the Marquis de Maison Rouge will not admit, nor establish on his lands or concessions, any American.

Signed, EL BARON DE CARONDELET.

Translation from the Spanish of document marked B.

Don Carlos Trudeau, the King's and special surveyor for the province of Louisiana, &c.

Do hereby certify, in favor of Mr. the Marquis of Maison Rouge, that the lands which figure on the above plan, marked with vermillion, may contain thirty leagues in superficies, (or about.) The first lot, marked No. 1, is situated on the right side of Ouachita river, beginning at five arpents lower than the mouth of the bayou de la Cheniere de Tondre, up to the bayou Calumet, (or Pipe bayou,) with the ordinary depth, in order to complete one hundred and forty thousand arpents of superficies. The second lot, marked No. 2, situated on the left side of the same Ouachita river, beginning two leagues lower from Fort Miro and from the point named l'Ainé, till one league further down of the small prairie named Prairie de Lee, with the ordinary depth, to complete sixty thousand arpents in superficies. The third lot, marked No. 3, taking in front of bayou la Loutre, (or Otter bayou,) and from there tracing a line from the south, sixty-five degrees east, till bayou de Siar; the same line, running from bayou Siar to bayou Barthelemy and to Ouachita, make the limits of said lot No. 3; and the lot No. 4, from the right bank of Ouachita river, taking in front of the mouth of bayou Barthelemy, down the said river till bayou La Loutre, (or Otter bayou,) which lots Nos. 3 and 4, with the ordinary depth, make eight thousand three hundred and forty-four arpents in superficie; and the same, with lots 1 and 2, form a total in superficie of two hundred and eight thousand three hundred and forty-four arpents, corresponding to the thirty leagues above mentioned, at the rate of two thousand five hundred fathoms for the side of each league, which is the measure adopted in this province. It is well understood that the lands included in the said

lots, which are owned with good titles, or by a decree of former concession, ought not to be included in the said thirty leagues; to the contrary, the Marquis de Maison Rouge promise not to disturb any one who may occupy said lands, and to maintain them in their rights and privileges; and if in case the said thirty leagues of land receive any diminution on account of the portion of the same so occupied, the Marquis will have a right to complete the said thirty leagues of land so conceded in vacant lands situated in some other parts of the country, at his will and satisfaction.

In testimony whereof I have delivered the present certificate, with the figurative plan above, by order of his excellency the Governor Baron de Carondelet, this fourteenth June, one thousand seven hundred and ninety-seven.

(Signed) CARLOS TRUDEAU, *Surveyor.*

Recorded in liber A, No. 1, verso 38, and copy delivered.

I certify the foregoing plan and procès verbal to be a true and exact copy of the original filed in bundle letter B, No. 15, and deposited amongst the records in the surveyor general's office under my charge.

In testimony whereof I have hereunto set my hand and seal of office, in the city of New Orleans, this 23d day of April, in the [SEAL.] 1847th year of our Lord, and the seventieth of the independence of the United States of America.

(Signed) LS. BRINGIER,
Surveyor General.

I certify the foregoing to be a true and correct translation from the Spanish of a plan and certificate of survey annexed to it, marked document B, filed in the case of Heirs of Turner vs. United States.

LS. DUVIGNEAUD,
United States translator.

Interrogatories to be propounded to Charles Tessier, a witness residing in the parish of East Baton Rouge, the answers to which are to be read in evidence on the part of the complainants on the trial of the above named suit:

Int. 1st. What is your age, and in what State or country were you born?

Int. 2d. Did you hold any official stations in Louisiana under the Spanish government, or since the change of government; if yea, what offices did you hold, and during what length of time; do you hold any public office now; if so, what?

Int. 3d. Who were the persons, during the administration of Governor Carondelet, upon whom devolved the duty of filling up the body of the grants of land made by said governor in Louisiana?

Int. 4th. Please examine the document marked (A,) hereto annexed, purporting to be a grant of land made by Governor Carondelet to the Marquis de Maison Rouge, and state in whose handwriting the body of

the grant is; and what office, if any, did said person fill; who wrote the body of said grant?

Int. 5th. Are you, or are you not, acquainted with the handwriting and signature of Governor Carondelet and Andres Lopez Armesto; have you or not often seen them write and sign their names respectively; were you acquainted with said Armesto; did he fill any office; if so, what office?

Int. 6th. If you are acquainted with the handwriting of said Carondelet and said Armesto, then state whether their signatures to said document, marked (A,) are or are not genuine.

Int. 7th. Had you, or had you not, any personal knowledge of the issuance of said grant to the Marquis de Maison Rouge; if you had, state when it was issued, and also how you acquired your knowledge and information on the subject.

Int. 8th. Was said document, marked (A,) a perfect or an imperfect grant according to the usages and customs of the Spanish government in Louisiana at that time; was, or was it not, under the Spanish government a "titulo en forma;" what was such a "titula en forma;" was it evidence of a complete and perfect grant of land, or was it necessary for the grantee to obtain still further and other instruments of title, or comply with other formalities, to give him a perfect legal right to the land?

Int. 9th. Were you, or were you not, well acquainted and familiar with the operations, forms, customs, and usages of the land department of the Spanish government of Louisiana under Governor Carondelet; and how did you acquire your information? Please examine the annexed document, marked (B,) purporting to be a copy, certified by Louis Bringier, surveyor general of Louisiana, of a plan or map, and a certificate made by Carlos Trudeau, late surveyor general of the Spanish province of Louisiana; read said certificate or process verbal, compare it with the grant or "titulo en forma," and state whether or not the original of said plan and certificate is not the plan referred to in said grant as being at the head of it; and had not the person, who drew up the body of said grant, before his eyes at the time the said plan and process verbal of Carlos Trudeau?

Int. 10th. If you state, in answer to any previous interrogatory, that you held an office under the Spanish government, then state whether the duty of filling up grants of land ever devolved upon you; if it did, under what direction did you fill them up; were your directions merely verbal, or did you or did you not in addition consult the surveys and certificates of survey which had been previously made of the land granted?

Int. 11th. Were you well acquainted with the late Carlos Trudeau; if so, when, how long, and up to what time, did he hold the office of surveyor general under the Spanish government; did he hold any public office after the change of government; if, so, what; *which* was his character and reputation for competency, intelligence, and probity; has it ever come to your knowledge that, in any judicial or extra-judicial

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investigation of Spanish land title in Louisiana, any act of said Carlos Trudeau was charged with being suspicious or fraudulent, or with having proceeded from corrupt motives?

Int. 12th. Up to what period of time did Governor Carondelet continue in the office and exercise the functions of governor of Louisiana; who was his successor, and when did he arrive in Louisiana; did or did not Governor Corondelet continue in office, grant land, and exercise the other functions of governor, until the arrival of his successor; and please state particularly whether said Carondelet was or was not acting as governor of Louisiana at the time said grant was made to Maison Rouge, to wit, on the 20th June, 1797; and did or did not said Governor Carondelet make other grants of land subsequent to that period?

Int. 13th. In whose handwriting are the following words at the foot of the grant, marked (A,) to wit: Nota. "Que en conformidad de su contrata el Marques de Maison Rouge ne admitera en establecera en las tierras de su concesion Americano alguno;" and do you recognise the signature "El Baron de Carondelet," at the bottom of said memorandum; is it the genuine signature of Governor Carondelet or not?

Int. 14th. Please read said two affidavits, and state whether any of the facts therein stated are true to your own knowledge, and point out the same, except so far as you have already stated them in your previous answers.

Int. 15th. State what public officers, if any, said Jean Mercier and Pierre Derbigny filled, both under the Spanish territorial and State government of Louisiana; and what was their character for intelligence, veracity, and probity?

Int. 16th. Does the document marked (B) purport, upon its face, to be a plan, map, and description, or process verbal, of an actual survey previously made, or is it a mere figurative plan made in that actual survey; state whether it was or was not the custom of the Spanish government to make grants, traced upon such figurative plan, without any actual survey; and state how such figurative plans were made, under whose direction, and whether such figurative plans were or were not as valid and effective to support a grant as plans or maps made upon an actual survey?

Int. 17th. If you know any thing further of advantage to complainants, please state the same as fully as if particularly interrogated thereto.

(Signed) PRENTISS & FINNEY,
Complainants' solicitors.

Cross interrogatories.

HEIRS OF HENRY TURNER
vs.
THE UNITED STATES.

District court of the United States, for the district of Louisiana.

Defendants, by their attorney, file the following cross interrogatories:

First. Have you any interest, direct or indirect, in the event of this suit?

Second. Are you related to any of the parties plaintiff?

Third. If you state the names of the persons upon whom devolved the duty of filling up grants of land, then did those persons hold an official station; what was the name and character of that station?

Fourth. Was the office mentioned in the fourth chief interrogatory a principal or a subordinate office; was the officer appointed by the King or the governor; if the office was subordinate, what department was it attached to; who was the head of the department?

Fifth. Did you ever see Carondelet and Armesto write their names; and, if so, how often?

Sixth. Did you see Carondelet and Armesto, or either of them, sign their names to the document A?

Seventh. Were you educated to the profession of the law under the Spanish government; or did you study and become familiar with the laws of Spain and her colonies, or any part of them; and, if so, what part?

Eighth. Did you see the words referred to in the thirteenth chief interrogatory written in your presence, or how do you know they were written by the person you mention?

Ninth. If you know any thing further to benefit the United States, the defendants herein, please state the same as fully as though and thereunto specially interrogated.

The attorney of the United States specially objects to the eighth and seventeenth chief interrogatories, considering them as directed to matters of law and not to matters of fact, and he declines altogether to offer cross interrogatories thereunto; and he specially reserves, on behalf of the United States, the right to make all other legal exceptions to the proceedings.

(Signed) THOMAS J. DURANT,
Attorney of the United States, for the district of Louisiana.

Clerk's office, district court of the United States.

I hereby certify, that the foregoing are true copies from the original on file.

In testimony whereof I have hereunto signed my name and affixed the seal of said court, at New Orleans, this 20th of December, 1847.

[SEAL.]

N. R. JENNINGS, *Clerk.*

Answer of Charles Tessier to the foregoing interrogatories.

STATE OF LOUISIANA,
Parish of East Baton Rouge.

Be it remembered, that on this fourth day of January, eighteen hundred and forty-eight, by virtue of the annexed commission issued from the honorable the district court of the United States for the district of

Louisiana, at New Orleans, in said district, on the 22d day of December, A. D. 1847, directed to "any justice of the peace in the State of Louisiana," to take the deposition of Charles Tessier, a witness for the complainants in a certain cause now pending in said court, wherein the the heirs of Henry Turner are complainants, and the United States are defendants, on the annexed and foregoing interrogatories and cross interrogatories, I caused said Charles Tessier, a person of sound mind and lawful age, to come before me, James Cooper, a justice of the peace, duly commissioned and qualified, for the parish of East Baton Rouge and State aforesaid, at the town of Baton Rouge in the said parish and State, who being by me first duly cautioned and sworn true answers to make to said interrogatories and cross interrogatories, did depose and say as follows:

To 1st interrogatory witness answers: That he is now upwards of seventy years of age.

Ans'r. To 2d interrogatory witness answers: That he was principal clerk in the office of the Spanish government of Louisiana for making grants of land; and since the change of government he held the office of parish judge for the parish of East Baton Rouge for upwards of thirty years; and, since the adoption of the present constitution of this State, holds the office of notary public for the said parish.

To 3d interrogatory witness answers: That this deponent, John Mercier, and Louis Leautand, were the persons upon whom devolved the duty of filling up the body of grants of land made by Governor Carondelet during his administration in Louisiana.

To 4th interrogatory witness answers: That the body of the grant marked A, shown him, purporting to be a grant of land from Governor Carondelet to the Marquis de Maison Rouge, is in the handwriting of this deponent, who was the principal clerk in the office of the Spanish government of Louisiana.

To 5th interrogatory witness answers: That he is familiar with the handwriting and signatures of Governor Carondelet and Don Andres Lopez Armesto; that he has often seen them write and sign their names. That he was acquainted with Armesto, who filled the office of secretary of the Spanish government of Louisiana.

To 6th interrogatory witness answers: That the signatures of Governor Carondelet and Secretary Armesto to the annexed document, marked A, are both genuine.

To 7th interrogatory witness answers: That he has a personal knowledge of the issuing of the said grant to the Marquis de Maison Rouge; that he acquired his information from having filled up the said grant himself on the day of the date thereof.

To 8th interrogatory witness answers: That the document marked A is a perfect grant, according to the usages and customs of the Spanish government of Louisiana at that time, and, as such, was denominated a "titulo en forma," which was evidence of a complete grant of land, and required no further evidence or instrument to perfect it.

To 9th interrogatory witness answers: That he was well acquainted

with the operations, forms, customs, and usages of the land department of the Spanish government of Louisiana under Governor Carondelet. That he acquired his information from his position in the office, as before stated. That the annexed document, marked B, now shown him, purporting to be a copy, certified by Louis Bringier, surveyor general of Louisiana, of a plan, or map and certificate, made by Carlos Trudeau, late surveyor general of the Spanish province of Louisiana, is a copy of the original plan and certificate referred to in said grant, marked A. That owing to the length of time (over fifty years) which has elapsed since the said grant was filled up, deponent cannot now recollect whether the plan and process verbal of Carlos Trudeau was before his eyes or not; but he acted under the orders of the governor and secretary in making out said grant.

To 10th interrogatory witness answers: That, as he has already stated, he did hold an office under the Spanish government, and that the duty of filling up grants devolved upon him; and that those grants were filled up by him, under the direction of the governor and secretary; that said governor and secretary gave him their instructions, sometimes in writing and sometimes by verbal dictation. That, in addition, it was customary to consult the surveys previously made, and certificates of the surveys of the lands to be granted, in order to ascertain the quantity and location of the same.

To 11th interrogatory witness answers: That he was acquainted with Carlos Trudeau, surveyor general under the Spanish government; that his acquaintance with said Trudeau commenced about the year 1790, and continued up to the time of the change of government, during which time he, the said Trudeau, filled the office of surveyor general under the Spanish government in Louisiana; that he does not know whether he held any public office after the change of government or not; that his character for competency, intelligence, and probity, was without reproach, and in no investigation, judicial or extra-judicial, of Spanish titles to land in Louisiana was any act of said Trudeau ever charged with being fraudulent or proceeding from corrupt motives, to this deponent's knowledge.

To 12th interrogatory witness answers: That Governor Carondelet continued in office and exercised the functions of governor of Louisiana up till the month of August, 1797, when his successor, Gayoso, arrived and took charge of the government; that Governor Carondelet was acting as governor of Louisiana at the time said grant was made to Maison Rouge, to wit, on the 20th of June, A. D. 1797, and deponent believes that other grants of land were made by him subsequent to that date, but does not recollect to whom they were made.

To 13th interrogatory witness answers: That the words at the foot of the grant marked A, and alluded to in this interrogatory, are in the handwriting of Don Andres Armesto, and the signature to the same is the genuine signature of Governor Carondelet.

To 14th interrogatory witness answers: That the affidavits referred

to in this interrogatory not being exhibited to him, he cannot give any answer.

To 15th interrogatory witness answers: That John Mercier was a clerk in the office of the Spanish government in Louisiana, and afterwards filled the office of recorder of mortgages for the parish of Orleans; that Pierre Derbigny was interpreter for the Spanish government in Louisiana, and afterwards governor of the State of Louisiana under the American Government; that they were both men of intelligence, veracity, and probity.

To 16th interrogatory witness answers: That the annexed document, marked B, purports on its face to be a copy of a plan, map, and description or process verbal of an actual survey previously made, and the actual survey always preceded the grant; that this deponent considers a figurative plan to be but the representation of an actual survey.

To 17th interrogatory witness answers: That he knows nothing farther of advantage to complainants in this suit.

Answers to cross interrogatories.

To 1st cross interrogatory witness answers: That he has no interest, either direct or indirect, in this suit.

To 2d cross interrogatory witness answers: That he is not related to either of the parties.

To 3d cross interrogatory witness answers: That the names of the persons who filled up grants have already been stated in his answer to the 4th direct interrogatory; that they were clerks in the office of the Spanish government of Louisiana, and held their appointments under the Spanish government.

To 4th cross interrogatory witness answers: That the office mentioned in the 4th direct interrogatory was a subordinate office, and was held under an order from the court of Spain to the best of deponent's recollection; and the said office was attached to no particular department.

To 5th cross interrogatory witness answers: That this interrogatory is answered in his answer to the 5th interrogatory in chief. He cannot say how often he saw them write their names.

To 6th cross interrogatory witness answers: That he does not recollect of having seen Carondelet and Armesto sign their names to the document A.

To 7th cross interrogatory witness answers: That he never made the laws of Spain or any of her colonies his particular study.

To 8th cross interrogatory witness answers: That he did not see the words referred to in the 13th direct interrogatory written in his presence, but he knows that they were written by the persons mentioned from his familiarity with their handwriting.

To 9th cross interrogatory witness answers: That he knows nothing

further that would benefit the United States, the defendants in this case.

CH. TESSIER.

Sworn to and subscribed before me, this 4th day of January, A. D. 1848.

JAMES COOPER, *J. P.*

Louis Bringier, witness for the plaintiffs, being duly sworn to answer the following interrogatories:

Int. 1. What is your name, age, office, or occupation, and how long have you resided in Louisiana?

Answer. His name is Louis Bringier, aged sixty-five years, holds the office of surveyor of the parish of Orleans, and ex officio surveyor general of the State of Louisiana; he was born in Louisiana, and has resided in the State generally ever since, with the exception of travelling occasionally in other countries.

Int. 2. Are you acquainted with the handwriting of Carondelet, formerly the Spanish governor of Louisiana; if so, look at the document, marked A, annexed to the deposition of Charles Tessier, purporting to be a grant of land from said Carondelet to the Marquis de Maison Rouge, and say whether the signature of the said Carondelet is genuine.

Answer. That he has seen his handwriting very frequently, and that he is familiar with it; and having examined the document referred to, and the signature, states that, from his knowledge of the handwriting, he believes the signature of Carondelet thereto to be genuine.

Int. 3. Are you not surveyor general of the State of Louisiana under the statute of that State, passed 18th of March, 1818; if you are, please state whether you have in your custody and possession as such officer any of the documents mentioned in the third section of said act, and especially if you have any which relate to the said grant from Governor Carondelet to Maison Rouge.

Answer. That he is surveyor general of Louisiana under the statute mentioned. States that he has the documents purchased from the estate of Carlos Trudeau by the State of Louisiana, and among them two figurative plats of survey relating to the grant to Maison Rouge.

Int. 4. Have you in your possession the original figurative plan and certificate of Carlos Trudeau, of which document marked B, annexed to the deposition of Charles Tessier, purports to be a copy; if so, please produce the original, and state where you obtained it, and how long it has been in your custody.

Answer. That he has the original figurative plan as described in his possession, but has it not at present with him; that he found it among the records of his office at the time of his appointment, somewhere about the year 1825, and that he has had it in his possession ever since.

Int. 5. In whose handwriting is said original; is it all in the same handwriting; is the date of said original plan and certificate at the close

thereof written in figures, or in words at full length; if in the latter, in whose handwriting is it written; are you well acquainted with the handwriting of Carlos Trudeau; if yea, say whether his signature to said plan and certificate is genuine or not.

Answer. That the said original is in the handwriting of Carlos Trudeau, and all is in the same handwriting; the date at the close is not in figures, but in words at full length, and in the handwriting of said Trudeau; that he is well acquainted with the handwriting of Carlos Trudeau; having seen it very frequently, and that his signature to the said plan and certificate is genuine.

Int. 6. What office, if any, did Carlos Trudeau hold under the Spanish government; what was his character for honesty, probity, and capacity?

Answer. That he held the office of surveyor general under the Spanish government; and that his character for honesty, probity, and capacity was unimpeached, and that he stood remarkably high in public estimation as possessing all these qualities.

Int. 7. Have you or not in your possession and custody, among the records of your office, a copy or duplicate of the original plan and certificate of Carlos Trudeau, referred to in your previous answer; if so, produce it; state how it came into your possession; in whose handwriting it is; whether the date at the end is in figures, or written in full; whether the signature of Carlos Trudeau thereto is genuine; and annex to your deposition said copy or duplicate.

Answer. That he has said document as above described in his possession and custody; that he now produces the same document before the commissioner, but the same being a record of his office he declines permitting to be filed; he found it among the records of his office when he assumed the duties thereof as before stated; that it is in the handwriting of Carlos Trudeau, wholly and entirely, the date written in full and not in figures; and the signature of Carlos Trudeau thereto is genuine; and said witness here annexes to this deposition a certified and correct copy of said copy or duplicate marked C.

Int. 8. Please state what was the custom and usage of the Spanish government of Louisiana in regard to such copies or duplicates of certificates of survey; were they or not, when issued by the proper officer, considered of the same character, dignity, and effect as the original?

Answer. That the copy of a plat and certificate of survey, when made by the surveyor, had the same dignity, force, and effect as the original; that it was the same thing as the original.

Int. 9. Are you acquainted with the forms and customs of the Spanish government in granting lands in Louisiana; if so, what is the character and nature of Trudeau's plan and certificate in favor of Maison Rouge; does it necessarily import that an actual previous survey was made or not; were or were not lands sometimes granted by the Spanish government upon figurative plats or plans certified by the surveyor general before any actual survey had been made; did a figurative plan, cal-

ling only for natural boundaries, necessarily imply an actual survey, according to the usages of the Spanish government in granting lands?

Answer. That he has some acquaintance with the usages and customs of the Spanish government in granting lands; that Trudeau's plan and certificate was a figurative one, and implied and meant that no previous survey had been made; that the Spanish government was in the habit of granting lands upon such figurative plats or plans before the actual survey; that this plan would have to be surveyed afterwards to ascertain the quantity. The grant however could be made upon such a plan without any actual survey; the subsequent survey being necessary only to ascertain the quantity.

Int. 10. Have you or not in your possession and custody, among the records of your office, a plan and certificate of Carlos Trudeau in favor of the Baron de Bastrop; if so, state in whose handwriting is said plan or certificate; and is the signature thereto of said Trudeau genuine?

Answer. That he has the original certificate of Carlos Trudeau in favor of the Baron de Bastrop; a certified copy of which is annexed to this deposition, and marked D, and made a part of this answer; said original is wholly in the handwriting of said Carlos Trudeau, and his signature thereto is genuine.

LS. BRINGIER.

Cross examination by the district attorney waived.

Additional testimony of Louis Bringier.

In the above entitled cause, Louis Bringier, a witness duly sworn on behalf of plaintiffs, and whose testimony has already been taken, was this day recalled by the plaintiffs to answer the following interrogatory:

Have you in your possession and custody the original figurative plan and certificate of Carlos Trudeau in favor of the Marquis de Maison Rouge, of which document marked B, attached to the deposition of Charles Tessier, and here presented to you, purports to be a copy? If yea, produce said original, compare it with said copy, and state whether said copy is correct and complete. State how said original came into your possession. In whose handwriting are the words in the plan or drawing, and also those in the body of said original? Is the signature of Carlos Trudeau genuine? Can you file said original with this deposition? If not, state the reason why.

Answers. That he has in his possession and custody the original figurative plan and certificate set forth in the interrogatory, of which the document marked B, attached to the deposition of Charles Tessier, now presented to the notice of witness, purports to be a copy. Having compared said document B with said original, he states that it is an accurate, correct, and complete copy. Said original came into his possession at the time he assumed the office of surveyor general; it was among the records of the office. All the handwriting, both the words in the plan and drawing as well [as] those in the body of the original, *is* Carlos Trudeau's, and the signature of Carlos Trudeau thereto is genuine.

Witness says that he cannot leave said original document with this his deposition, because it forms one of the records of his office and belongs to the State.

(Signed) LS. BRINGIER.

I certify the foregoing to be the true deposition of L. Bringier, and that the same was subscribed to before me.

Witness my hand and seal, this 8th day of March, 1848.

N. R. JENNINGS, *Comm'r.*

Louis Boligny being duly sworn:

Question 1st. What is your name, age, and occupation; and how long have you resided in Louisiana? States that he is sixty-seven years of age; has resided all his life in Louisiana.

Question 2d. Are you acquainted with the subject matter of this suit; have you any interest whatever in its result?

Answers. That he is acquainted with the subject matter of this suit, and has no interest in its result.

Question 3d. What has been your occupation, and what offices have you filled in the State of Louisiana; and what office do you hold now?

He was under the Spanish government an officer in the regiment of Louisiana; since the cession of Louisiana, has been a planter, a member of the legislature, a justice of the peace, and is now recorder of mortgages for the parish of Jefferson.

Question 4th. Are you acquainted with the handwriting of Carondelet, formerly governor of the province of Louisiana; if so, look at the document marked "A," annexed to the deposition of Charles Tessier, purporting to be a grant of land from said Carondelet to the Marquis de Maison Rouge, and say whether the signature of the said Carondelet to the said grant is genuine.

Answers. That he having been a standard bearer in the regiment, he frequently was sent to Governor Carondelet and saw him write orders, which were handed witness to deliver; that from this means, and from having seen many letters written by said Carondelet, he has become acquainted with his handwriting; has examined the document A referred to as above, purporting to be a grant of land from the said Carondelet to the Marquis de Maison Rouge, and recognises the signature of said Carondelet to be genuine; he also recognises the signature of Carondelet to the note at the bottom of the said grant to be also in his handwriting.

Question 5th. In whose handwriting is the body of the said original grant?

Answers. That it is in the handwriting of Charles Tessier, who was at the date of the grant one of the clerks in the office of the secretary of said Governor Carondelet; the secretary's name is Andrez Lopez Armesto, whose signature he recognises at the bottom of said grant.

Question 6th. In whose handwriting is the French translation of said grant found upon the same sheet with the grant?

Answers. That it is in the handwriting of the Marquis de Maison Rouge, and was written in the presence of witness; witness assisted Maison Rouge in making this translation, Maison Rouge being less familiar with the Spanish language than witness; this translation was made in 1799 in the house of *father's witness*, where Maison Rouge was then on a visit, and where he died.

Question 7th. Did you know Carlos Trudeau; what office did he hold, if any, under the Spanish government, and what was his character [for] probity, integrity, and capacity?

Answers. That he knew Carlos Trudeau, or Carlos Laveau Tradeau, very well; (said Trudeau was in the habit of signing his name both ways;) he was for many years, and until the change of government, the surveyor general of the province of Louisiana; he was generally esteemed, and universally considered, a man of honor and probity; after the change of government he remained in Louisiana, and so generally was he esteemed, that in 1805 or '6 he was elected recorder of New Orleans, and that he was several times re-elected, and held that office until his death, which occurred about the year 1813 or '14.

Question 8. Look at the document here produced from his records by Louis Bringier, surveyor general of Louisiana, purporting to be a copy or duplicate of a figurative plan and certificate made by Carlos Trudeau in favor of the Marquis de Maison Rouge for thirty leagues of land, and a copy of which copy or duplicate is annexed to the deposition of Louis Bringier, marked "document C," and on file in this suit. Do you know the handwriting of the said duplicate; if so, whose is it; is it wholly in his handwriting, and is the signature of Carlos Trudeau to the same genuine?

Answers. Having examined said duplicate, of which said document C is a copy, he states, that he is well acquainted with the handwriting, and that said figurative plan and certificate are wholly and entirely in the handwriting of Carlos Trudeau, as well the writing in the drawing or plan as in the body of the certificate, and the signature of Carlos Trudeau thereto is genuine.

Question 9th. Did you ever before see said plan and certificate of Trudeau, or a copy or duplicate thereof; if yea, when did you first see it; where did you first see it; in whose handwriting was it; where did you find it; was it ever in your possession, and what became of it?

Answers. That he has seen and had in his possession a copy or duplicate of said plan and certificate; it was wholly in the handwriting of said Carlos Trudeau; he first saw it in the possession of Maison Rouge; immediately after Maison Rouge's death the seals were affixed to his trunk by the judicial authorities; when afterwards the seals were taken off, perhaps 2 or 3 days after his death, the trunk and its *contains* were delivered to the witness, as his executor and universal legatee, and witness found among the papers in said trunk said plan and certificate, and the original grant now on file in this suit; he delivered said plan

and certificate, with other papers relating to said grant, to Daniel Clarke, when he sold to him in 1811, and he does not know what has become of the same; he has not seen it since.

Question 10th. Are you acquainted with the forms and customs of the Spanish government in granting lands in Louisiana; if yea, state what is the character and nature of Trudeau's plan and certificate before referred to; does said figurative plan necessarily imply that an actual previous survey was made; were or were not lands sometimes granted by the Spanish government upon figurative plats or plans made out by the surveyor general in his office before any actual survey had been made; and were or were not such grants valid under the usages and customs of the Spanish government?

Answers. That he knows the usages of the Spanish government in granting land in Louisiana; says that the plan referred to in the interrogatories is not an actual survey, but a figurative plan or sketch, which implies that the land was not surveyed; this land was never surveyed by Carlos Trudeau, who never was in Ouachita; it appears from the terms of the certificate, and of the grant, that the land was not surveyed under the Spanish government; a plan of an actual survey was never called plano figurativo; that grants based upon figurative plans were as valid as those preceded by actual surveys; there were then in the province but three surveyors, to wit, Soulard, at St. Louis, Goutsoulin, in Attakapas, and Carlos Trudeau, in New Orleans; considering the state of the country at the time, they could not *had* possibly surveyed all the lands that were granted.

L. BOULIGNY.

Cross examination by the dist. att'y waived.

E. Mazureau, on behalf of plaintiffs, deposes, that on the 15th of March, 1777, he was born, and *and* that he is consequently 71 years of age. He arrived in Louisiana in the year 1804, and was admitted to the bar to practise law in the fall of that year; that he has continued ever since to practise law in the country. Witness was well acquainted with the forms and usages of the Spanish government in granting lands before its transfer to the American government. Witness is also well acquainted with the Spanish language and laws.

Witness having examined the original document marked A, purporting to be a grant of 30 superficial leagues of land made by the Baron de Carondelet to the Marquis de Maison Rouge, and also the certified copy of a plat and procès verbal, marked B, purporting to be made by Carlos Trudeau, surveyor general of the province of Louisiana, dated the 14th of June, 1797, which two documents are annexed to the deposition of Charles Tessier, already on file in this cause, do altogether form an absolute and complete grant of the lands embraced therein, according to the laws and usages of the Spanish government, and the same was absolutely complete and binding upon the King of Spain. The said documents constitute an absolute and complete title, and re-

quired no further action on the part of the government and its officers, nor of the grantee.

Witness recognises in the original document marked A, already referred to, the signature of Baron Carondelet, and of his secretary, Armesto, to be genuine, and in their respective handwriting.

Witness was never acquainted personally with the Baron de Carondelet, and therefore could never see him sign, but he is very well acquainted with his handwriting and signature, having seen in the course of his professional practice hundreds of the signatures of the Baron de Carondelet in the public records of that period.

Witness has been personally acquainted with Don Andreas Armesto; has seen him sign and write on several occasions; has seen also hundreds of his signatures on public records; witness has no doubt that both the signatures of Carondelet and Armesto, on document A, are genuine.

Witness was well and intimately acquainted with Don Carlos Laveau Trudeau, the former surveyor general of the province of Louisiana from the time of his, witness's, arrival in the country, until the period of Trudeau's death, which occurred some time after the war.

Witness states, that from his own knowledge, as well as from the report of others before witness knew him, Trudeau always bore the character of a most honest public officer; and he would also add, that he was a most excellent man; he lived in a modest, retired way, and died poor, and greatly respected.

The district attorney on the part of the United States has, no cross interrogatories to propound.

MAZUREAU.

Antoine Cruzat, on behalf of plaintiffs, being sworn, deposes that he resides in the State of Louisiana; that he was born in Louisiana, and is now seventy-three years of age; states that he is acquainted with the handwriting of Baron Carondelet, and having examined the original document marked A, already referred, purporting to be an original grant from Carondelet to the Marquis de Maison Rouge, of thirty superficial leagues, states that the body of the grant is in the handwriting of Charles Tessier, who was at the time of its date a clerk in the office of the Governor, and the signature is the genuine handwriting of the Baron de Carondelet; he also recognises the writing marked nota under the seal of said grant as the handwriting of Andres Lopez Armesto, and the signature thereto is the genuine handwriting of the Baron de Carondelet; he also recognises the signatures of Andres Lopez Armesto, at the bottom of the grant, as genuine; Armesto at that time was secretary of the government, and as such his signature was always attached to grants of land by the government.

Witness was well acquainted with the forms and usages of the Spanish government in granting lands in Louisiana at that period.

Deponent states that the grant marked A is an absolute and complete grant, and vested the title in the Marquis de Maison Rouge, and no

other formality was required. It was obligatory upon the government, and the grantee was entitled to immediate possession.

Deponent was personally acquainted with Laveau Trudeau, and was intimate with him. The witness was himself an assistant in the office of Governor Carondelet, where Trudeau often came on official business. Trudeau was surveyor general under the Spanish government in the year 1797.

Witness having examined the procès verbal and certificate marked B, and attached to the deposition of Charles Tessier, filed in this cause, states that said plan and certificate are in due form of law, and constituted sufficient ground and authority for the original grant above spoken of; said certificate does not purport to be a certificate of a survey made by Carlos Trudeau in person, nor does it imply that he was ever on the land embraced therein; witness states that Trudeau was a man of the highest character and probity, and so universally esteemed; he was wholly incapable of forgery, or any improper act in the discharge of his official duties.

A. CRUZAT.

The district attorney has no cross examination.

An act of the legislature of Louisiana creating the office of surveyor general.

An act to create a surveyor general and parish surveyors in the State of Louisiana—Approved March 18, 1818.

1. Sec. I. That there shall be a surveyor nominated, and by and with the advice and consent of the Senate, commissioned by the Governor, for each and every parish of this State, who shall reside in the parish of his appointment; the one appointed for the parish of Orleans being ex officio surveyor general of the State; and the said surveyors, before they enter on the duties of their office, shall produce their commissions in the parish court of the parishes for which they shall have been respectively appointed, and there, in open court, take oath, and well and truly to execute and perform the duties of their office; and, moreover, shall give bond, with good and sufficient security, to be approved of by the said courts respectively, to wit, the surveyor general in a sum of six thousand dollars, and the other surveyors in a sum of two thousand dollars, payable to the Governor for the time being, or his successors in office, and conditioned for the due performance of the duties of their office.

2. Sec. II. That besides the scientific knowledge requisite for his profession, the said surveyor general shall possess a thorough knowledge of the French, English, and Spanish languages; and he shall be bound to keep his office in the city of New Orleans, in a fire-proof brick house, situated in one of the parts of said city where houses are most generally built of bricks.

3. Sec. III. That as soon as the said surveyor general shall have taken the oath prescribed by this act, he shall cause to be delivered to

him by the secretary of State, on an inventory, all the books, papers, records, drawings, plans, plats, warrants, and certificates of surveys, and all other papers purchased by the State from the estate of the late Charles Trudeau, and the same shall be deposited in his office, and at the foot of a duplicate of the said inventory, which shall remain deposited in the office of the secretary of State, the said surveyor general shall give his receipt of the aforesaid documents.

4. Sec. IV. That it shall be the duty of the said surveyors faithfully to execute all orders of survey directed to them by any of the courts of this State, and to make all surveys of lands lying in the respective parishes for which they shall have been appointed, and to which the United States have no claim, at the request of owners or proprietors thereof; and generally to do whatsoever in the surveying, measuring, and dividing of lands may be required of them by any person wishing the same done; and in all their measurations they shall be governed by the English perch or pole: Provided, however, That, in the plans or certificates of survey which they shall make out, they shall be bound to add to every designation of an English measure the relation it bears with the measures formerly used in this State.

5. Sec. V. That the fees chargeable by the said surveyors shall be paid by the party desiring the services to be performed, and where the services shall be rendered in obedience to an order of a court, in a suit therein depending, the surveyor shall make out and state an account of his fees for such services, written in words at full length on the back of one of the plats by him returned to the court, and the same shall be allowed in the bill of costs to be taxed against the losing party as other costs; but where it shall appear that the survey of any part thereof was made at the instance of the party cast in the suit, such and so much of the said fees as accrue on the works done by the surveyor for such party shall not be taxed.

6. Sec. VI. That it shall be the duty of the said surveyors, whenever called on for that purpose, to resurvey and remark and bound any tract of land in their respective parishes, where the old marks are defaced or likely to decay and perish, or where by any cause they are destroyed, taking special care, in all such cases, to be governed by the original surveys, patents, or title-deeds of such tracts; and the said surveyors shall make a plain report and certificate of all such remarks and boundaries by them made as aforesaid; of which report and certificate they shall deliver a certified copy to the owner, if he requires it.

7. Sec. VII. That the chain carriers and markers shall be allowed each one dollar per day, for their services as such, to be paid in the same manner as is provided by this act for surveyors.

8. Sec. VIII. That each surveyor appointed under this act shall, and is hereby authorized and required to, administer an oath to each of his chain carriers, faithfully and diligently to perform his duties as chain carrier, without favor or affection or partiality; and it shall be the duty of each of the surveyors to write the name of each of his chain carriers down on the plat made of a tract of land for which they carried the chain in the surveying thereof.

9. Sec. IX. That it shall be the duty of a surveyor, whenever called on to make a survey, as provided by the sixth section of this act, to notify the adjoining landholders of the day on which he will commence the said survey, that they may attend or cause somebody else to attend in their behalf, if they think proper, and he shall note the same on the plat, by putting down the names of the persons notified, and the number of days notice he gave each of them.

10. Sec. X. That it shall be the duty of the said surveyors, to record by order of dates, in a book kept for that purpose, all the plats and reports of surveys made by them; and the surveyor general, besides the private register for the parish of Orleans, shall keep a general register, in which he will record, as well the plats and reports of the operations made by him, as the plats and reports of the operations made by the parish surveyors, who shall be bound to forward him every three months certified copies of the operations made by them in their respective parishes; and all certified copies of the plats and reports of surveys thus recorded, as well as of the titles and papers which, pursuant to this act, are to be delivered to the surveyor general, which shall be given by the said surveyors under their hands and the seal which they are hereby authorized to adopt, shall be entitled to full credit in all the courts of this State.

11. Sec. XI. That the said surveyors shall be entitled to demand and receive for their respective services the following fees, to wit, for mileage in repairing to and returning from any place where a survey is to be made, per mile, twelve and a half cents; for measuring the front of any tract of land on any bayou or river, for every arpent, running measure, twenty-five cents; for measuring depth line, where the line touches cypress swamps, and for measuring back line, for every arpent, twenty-five cents; for running a straight line, for every mile, four dollars; for meandering a water course, for every arpent, twenty-five cents; for every plat of a tract of land, including the record, five dollars; for every certified copy of such plat, two dollars and fifty cents; for planting every corner post, one dollar; for any additional tract of land comprehended in a plat with surveys and boundaries established, five dollars; for measuring every lot in a town, suburb, or other place divided into lots, for every foot, one cent; for every original plat of any such lot, including the record, three dollars; for every certified copy of such plat, and of the certificate of survey, two dollars and fifty cents; for every additional tract of land in a connected plat, two dollars.

12. Sec. XII. That in case the said surveyors should demand or receive, for any of the services mentioned in the provisions of this act, any other fees than those above fixed and established, or if the said surveyors should demand or receive any of the said fees without having performed the services for which they shall have demanded or received them; and if the said surveyors should demand or receive any other or higher fees than those allowed to them by this act, which shall be proved by the receipt of such surveyor, and under his oath upon the Bible, the said surveyor shall for every such offence be fined in a

him by the secretary of State, on an inventory, all the books, papers, records, drawings, plans, plats, warrants, and certificates of surveys, and all other papers purchased by the State from the estate of the late Charles Trudeau, and the same shall be deposited in his office, and at the foot of a duplicate of the said inventory, which shall remain deposited in the office of the secretary of State, the said surveyor general shall give his receipt of the aforesaid documents.

4. Sec. IV. That it shall be the duty of the said surveyors faithfully to execute all orders of survey directed to them by any of the courts of this State, and to make all surveys of lands lying in the respective parishes for which they shall have been appointed, and to which the United States have no claim, at the request of owners or proprietors thereof; and generally to do whatsoever in the surveying, measuring, and dividing of lands may be required of them by any person wishing the same done; and in all their measurations they shall be governed by the English perch or pole: Provided, however, That, in the plans or certificates of survey which they shall make out, they shall be bound to add to every designation of an English measure the relation it bears with the measures formerly used in this State.

5. Sec. V. That the fees chargeable by the said surveyors shall be paid by the party desiring the services to be performed, and where the services shall be rendered in obedience to an order of a court, in a suit therein depending, the surveyor shall make out and state an account of his fees for such services, written in words at full length on the back of one of the plats by him returned to the court, and the same shall be allowed in the bill of costs to be taxed against the losing party as other costs; but where it shall appear that the survey of any part thereof was made at the instance of the party cast in the suit, such and so much of the said fees as accrue on the works done by the surveyor for such party shall not be taxed.

6. Sec. VI. That it shall be the duty of the said surveyors, whenever called on for that purpose, to resurvey and remark and bound any tract of land in their respective parishes, where the old marks are defaced or likely to decay and perish, or where by any cause they are destroyed, taking special care, in all such cases, to be governed by the original surveys, patents, or title-deeds of such tracts; and the said surveyors shall make a plain report and certificate of all such remarks and boundaries by them made as aforesaid; of which report and certificate they shall deliver a certified copy to the owner, if he requires it.

7. Sec. VII. That the chain carriers and markers shall be allowed each one dollar per day, for their services as such, to be paid in the same manner as is provided by this act for surveyors.

8. Sec. VIII. That each surveyor appointed under this act shall, and is hereby authorized and required to, administer an oath to each of his chain carriers, faithfully and diligently to perform his duties as chain carrier, without favor or affection or partiality; and it shall be the duty of each of the surveyors to write the name of each of his chain carriers down on the plat made of a tract of land for which they carried the chain in the surveying thereof.

9. Sec. IX. That it shall be the duty of a surveyor, whenever called on to make a survey, as provided by the sixth section of this act, to notify the adjoining landholders of the day on which he will commence the said survey, that they may attend or cause somebody else to attend in their behalf, if they think proper, and he shall note the same on the plat, by putting down the names of the persons notified, and the number of days notice he gave each of them.

10. Sec. X. That it shall be the duty of the said surveyors, to record by order of dates, in a book kept for that purpose, all the plats and reports of surveys made by them; and the surveyor general, besides the private register for the parish of Orleans, shall keep a general register, in which he will record, as well the plats and reports of the operations made by him, as the plats and reports of the operations made by the parish surveyors, who shall be bound to forward him every three months certified copies of the operations made by them in their respective parishes; and all certified copies of the plats and reports of surveys thus recorded, as well as of the titles and papers which, pursuant to this act, are to be delivered to the surveyor general, which shall be given by the said surveyors under their hands and the seal which they are hereby authorized to adopt, shall be entitled to full credit in all the courts of this State.

11. Sec. XI. That the said surveyors shall be entitled to demand and receive for their respective services the following fees, to wit, for mileage in repairing to and returning from any place where a survey is to be made, per mile, twelve and a half cents; for measuring the front of any tract of land on any bayou or river, for every arpent, running measure, twenty-five cents; for measuring depth line, where the line touches cypress swamps, and for measuring back line, for every arpent, twenty-five cents; for running a straight line, for every mile, four dollars; for meandering a water course, for every arpent, twenty-five cents; for every plat of a tract of land, including the record, five dollars; for every certified copy of such plat, two dollars and fifty cents; for planting every corner post, one dollar; for any additional tract of land comprehended in a plat with surveys and boundaries established, five dollars; for measuring every lot in a town, suburb, or other place divided into lots, for every foot, one cent; for every original plat of any such lot, including the record, three dollars; for every certified copy of such plat, and of the certificate of survey, two dollars and fifty cents; for every additional tract of land in a connected plat, two dollars.

12. Sec. XII. That in case the said surveyors should demand or receive, for any of the services mentioned in the provisions of this act, any other fees than those above fixed and established, or if the said surveyors should demand or receive any of the said fees without having performed the services for which they shall have demanded or received them; and if the said surveyors should demand or receive any other or higher fees than those allowed to them by this act, which shall be proved by the receipt of such surveyor, and under his oath upon the Bible, the said surveyor shall for every such offence be fined in a

sum of fifty dollars in favor of the party aggrieved, besides the restoration of the fees so unjustly demanded and received, to be recovered with costs before any court of competent jurisdiction.

(*Document A.*)

Thomas Freeman, surveyor of the lands of the United States, south of the State of Tennessee, to all whom these presents may concern:

Be it known, that I appoint John Dinsmore, esq., a deputy surveyor in the land district north of Red river, State of Louisiana, hereby authorizing and empowering him to execute and fulfil the duties of that station according to law, and to have and to hold said appointment, with all the rights and emoluments thereunto legally appertaining, during the pleasure of the surveyor of the lands of the United States south of the State of Tennessee, for the time being.

Given under my hand at the surveyor general's office, in the town of Washington, the 14th day of April, one thousand eight hundred and nineteen.

(Signed) THOMAS FREEMAN.

(*Document B.*)

You are hereby directed to survey the claim of Maison Rouge, near Fort Miro, on the Ouachita. That claim shall be surveyed, (as all other private claims are,) agreeably to its original location, and the resurvey thereof returned to this office for examination. You will call at this office on your way to perform the duties of your appointment, for the purpose of being legally qualified, and receiving such further instructions as may be deemed necessary.

(Signed) THOMAS FREEMAN,
Surveyor General.

Surveyor's office, Washington, April 14, 1819.

JOHN DINSMORE, esq.

Deposition of B. Winchester.

B. Winchester, being produced and sworn, answers as follows: That he was well acquainted with the late Thomas Freeman, surveyor of the lands of the United States south of the State of Tennessee, from the year 1815 to the time of his death.

Deponent is well acquainted with his handwriting, having often seen him write, and he recognises the signature of Thomas Freeman to the document marked A; also the manuscript portion as having been written and signed by said Freeman. Deponent has also examined the document B, annexed to this deposition, and recognises it as the writing of said Freeman; he also recognises the signature affixed to said document B as that of the said Thomas Freeman.

(Signed) BEN. WINCHESTER.

Sworn to and subscribed at the place and on the day first aforesaid.

(Signed) M. M. COHEN, *Commissioner.*

Will of Maison Rouge.

In the name of God Almighty, who lives and reigns without beginning or end. Amen.

Be it known to all who shall see this, my last will and testament, that I, Joseph de Maison Rouge, born in Paris, established in Ouachita, legitimate son of Louis de Maison Rouge and of Catalina de Villeneuve, both of the city of Paris, though ignorant of their being now alive, being sick abed, in full possession of my memory and understanding, as God our Lord has been pleased to give me; believing, as I truly believe, in the great and sovereign mystery of the most holy Trinity, Father, Son, and Holy Spirit, three persons really distinct, and one real essence, and in the incarnation of the divine word, made man for our salvation, in the most holy bowels of the Virgin Mary, our lady, his passion and death, and in the other articles and mysteries which our holy mother, the Catholic Apostolic Church of Rome, holds, believes, preaches, and teaches, regulated and governed by the Holy Spirit, in the faith and belief whereof I have lived, and shall continue to do till I die; fearing death, which is natural to all creatures, the hour uncertain, but knowing that mine is to come, I am desirous to make my will; and, for its greater validity and security, I invoke the assistance of the sovereign queen of angels, our most holy lady Mary, that she may intercede for me with her excellent, precious son, to forgive the enormity of my sins, and put my soul in the way of salvation; by whose divine intercession, intervention, and promises, I ordain and direct it in the form which follows:

First. Recommending my soul to the same Lord God who gave it to me, and created and redeemed it at the price of his most precious blood, passion, and death, I implore him by the most holy bowels of his divine mercy, that he will pardon it and send it to eternal rest among the chosen, for which it was created.

My body I order to be placed in the earth out of which it was made; and, when I die, I desire to be buried in the plainest manner, and that my funeral shall take place in such place as my executor chooses, to whom I leave the management of the rest of my funeral and interment, in order that he may act as to him appears best. Such being my will and pleasure.

I also direct that three masses be said for the rest and repose of my soul, for each of which three bits or rials shall be paid once and to each of the donations into which my goods and effects are divided.

I also declare that I am a bachelor, that it may so be made manifest and certain. I also declare and make known that I possess property in Paris, Berry, and Querry, which was confiscated, of which I possess no documents to establish my claim.

I also declare that I possess, in Ouachita, a house and land, which I give and bequeath to my servant maid, called Maria, an Irish woman; such being my wish and pleasure.

I also declare that I owe some small sums to my work people, which I desire to be paid from the present harvest.

I also name as my executor and property holder Mr. Louis Bouligny, whom I empower and give authority to, after my death, to take possession of my goods and property, without the intervention or interference of judicial proceedings; to make inventories, valuations, and sales thereof; to appoint such appraisers as he chooses, and to adopt all necessary proceedings until my mortuary affairs are concluded and wound up; for which purpose I postpone and extend the year of executorship, and further time which may be necessary for that purpose; and such is my will and pleasure.

I also declare that I have, at the house of Don Pedro, all the articles necessary to build a saw mill for cutting plank, and a pump auger.

I also desire and declare that, in the donation which by this will I make to my servant maid Maria of a house and land, there is only included five acres front, by the usual depth, and the aforesaid house, and not the rest, or other land; such being my will and pleasure.

And the residue and remainder of my goods, rights, and actions, as well within as out of this province, in case my parents are dead, I constitute and name, for my sole and universal heir, the aforesaid Louis Bouligny, in order that, after my decease, he may have and inherit them, with the blessing of God and myself; and such is my will and pleasure.

I revoke and annul, and declare void, cancelled, of no value nor effect whatever, any other will and testamentary dispositions I may have heretofore made by word or in writing, which I desire no faith or value shall be attached to, saving and excepting this which I at present authorize and declare in such manner and form as may stand good and right.

In faith of which, this instrument is dated in the city of New Orleans, the 26th of August, one thousand seven hundred and ninety-nine.

I, the notary, give faith to and know the declarer, who, to appearance, possesses his natural judgment, memory, and understanding, and signed it in the presence of Don Andres Lopez de Armesto, honorary commissary of war and secretary of this government, Dn. Pedro Gondillo, and Dn. Vizente Texeiro Lientard, inhabitants.

DE MAISON ROUGE.

VIZ'TE FERNANDEZ TEXEIRO,
PEDRO GONDILLO,
ANDRES LOPEZ DE ARMESTO.

Before me, PEDRO PEDESCLAUX,
Notary public.

This agrees with the original to which I refer. New Orleans, the third of July, one thousand eight hundred and seven.

[SEAL.] PEDRO PEDESCLAUX,
Notary.

[For map see original.]

Letter of Morales to Breard.

Translation of the letter of J. V. Morales, of 26th August, 1796.

Under this date I have written to the commandant, John Filhiol, as follows:

By the certificates which you sent me in behalf of the individuals who were brought here lately by the Chevalier Breard, I learn that there were among them many single men, who cannot, therefore, be considered as composing families, and, consequently, they ought not to have received the $100 stipulated in the 1st article of the contract which the Marquis of Maison Rouge made with the governor and intendant of this province. On this occasion we passed over this irregularity, in order to avoid disputes in future, it being inconsistent with the spirit of the contract, and of no use to the interests of the King, to spend the public money on individuals who, having no inducements to remain in the country, could leave it with the same facility they came. *I* must not occur again; and inform the Marquis that there are no funds in the public treasury destined to that object, and that, as soon as he has completed the number of thirty families which he contracted for, nothing will be paid out of the royal treasury to any who should exceed that number, and who wish to come and establish themselves in this district; and you will consider yourself instructed to this effect, and conform to it in future, advising me in conformity of what is done in the premises. I consider you as the agent, and authorized to act for the Marquis of Maison Rouge, in the business of bringing families to that post, and, therefore, communicate this for your government and information.

The Lord preserve you many years.

(Signed) JUAN VENTURA MORALES.

To Mr. AUGUSTUS DE BREARD.

New Orleans, 26th August, 1796.

Letter of F. Rendon to Maison Rouge.

NEW ORLEANS, *August* 12, 1795.

SIR: I have received the honor of your letter of the 25th June last, with a statement of the families. Your perseverance in the opinion you have formed of the excellence of the lands you inhabit, and which you are going to make flourish for the happiness of this province, as well as for those in its neighborhood which ought to partake of these advantages, ought to animate you to make the greatest efforts to effect its early accomplishment. The picture you draw of these enchanted places convinces me of the solidity of your judgment and of the fortunate selection you have made in your plan, as well as of the facility of means to carry it into execution in all its branches.

I have paid Mr. Merieult the three hundred dollars of Alexander Laurent, Peter Relé, and James Fèret.

By this opportunity, I inform the commandant of what is to be done when any new family arrives, giving him distinctly to understand that,

if the least formality or a certificate is wanting, and not conformable to the copy which I send him, no payment whatever will be made from the royal treasury.

I have the honor to be, with respect, sir, your very humble and most obedient servant,

(Signed) FRANCISCO RENDON.

Mr. De Maison Rouge.

Passport to Maison Rouge.

The Baron de Carondelet, knight of the religion of St. John, brigadier of the royal armies, governor vice-patron of the provinces of Louisiana, West Florida, and inspector of the troops thereof, &c., &c

It is hereby permitted Messrs. De Maison Rouge, De Breard, and other *person* of their suit, to pass on to Ouachita to examine its position, and there to form a settlement. In consequence, Mr. De Filhiol will afford them every assistance and the information necessary for that object.

Given in our government house, at New Orleans, this 1st day of January, one thousand seven hundred and ninety-five.

(Signed) The BARON DE CARONDELET,
ANDREW LOPEZ ARMESTO.

Judge Bullard's statement.

I was for a short time, jointly with Isaac Thomas, the agent of Daniel W. Coxe, esq., of Philadelphia, in relation to his landed interests in Ouachita, and particularly as part owner of the large grant to the Marquis of Maison Rouge. While acting in that capacity taxes were paid on our drafts which had been assessed upon those lands. Documents, which I have lettered A, B, C, D, E, show these payments. They are signed by me, and most of them by Isaac Thomas. I know the signature of Henry Bry, having often seen him write. His signature to documents F and G is genuine. I know also the handwriting of John Hughes, deceased. He signed document H. I was also well acquainted with the signature of M. P. Flint, who succeeded us in the agency. Documents I and J are signed by him. I am also familiar with the signature of Thos. Bryan, late sheriff of the parish of *the parish of* Catahoulas, and recognise his signature to document K. It is also to my knowledge that Mr. Coxe paid for opening a road through a part of the grant, in conformity with the police regulations of the parish of Ouachita. How much was paid I do not remember.

(Signed) H. A. BULLARD.

Translation.

Baron Carondelet to Filhiol.

New Orleans, *this 2d April*, 1795.

No. 1.—Rec'd the 20th May.

Your hopes are at last about to be satisfied, sir; we have just passed

a contract, with Mr. the Marquis of Maison Rouge, for thirty *and* so of families of agriculturists, who are going to form an establishment at Ouachita, composed of French royalists, Hollanders, Flemish, and Germans. Mr. de Breard, ci-devant . . . of marine, has departed for the ports of the United States, where he will take them and conduct them by the Ohio to Ouachita; perhaps he will even bring more of them, for we have permitted him to take hired hands, (des engagés;) on the other hand, the Baron de Bastrop, a Hollander, has contracted also for a quantity of families, who will come to us direct from Holland; and I expect him himself, from day to day, by the upper river. Mr. de Maison Rouge, who unites all kinds of knowledge, has left here for Natchez, where he has gone to take his equipage and a quantity of instruments fit for tillage to a new establishment, and to build a saw mill; for his principal object, and ours, is the cultivation of wheat, which will supply a grist mill which Mr. Tardiveau is going to establish in the neighborhood of the city, like that which he has just made at New Madrid, with the greatest success, with four grindstones, and in the most ingenious manner.

You will let Mr. de Maison Rouge choose four thousand arpents for his establishment where it may seem good to him, which shall be delivered to him, in proportion as the families shall arrive, at the rate of ten arpents front by forty deep per family; that of Breard goes up by this boat, and I beg you to have for it every consideration; accommodating it in the best way you can until the arrival of Mr. de Maison Rouge, and of another family which has also remained at Natchez.

According to this plan, you see, sir, that you will no longer be so isolated as heretofore, and that in a short time you will find yourself in a condition to make head against the savages. The Osages have again committed some robberies; nevertheless they have not killed any of our hunters, having *contended* themselves with taking from them the fruits of their chase. As the fort which we are building among them will be completed only at the end of this year, it is not yet possible to subject them, as there is room to hope that we will succeed in doing afterwards.

As to the Choctaws, there is no harm in the nations of the other border making war upon them; it will prevent them from frequenting so often your neighborhood; and when they shall see that your inhabitants will be in force, they will be [illegible]ou more respect. As to the rest, ... a fort; and we will pla[illegible]ere a garrison as soon as the war . . . . . will permit us to diminish that of the posts the most exposed. The intention of Mr. de Maison Rouge is to form a united colony, so as to be in a state to defend himself there easily against the savages, and to assemble together there *are* artisans of every kind.

I am enchanted that you should find yourself, sir, charged with this command; your love for humanity, your knowledge, your disinterestedness, all answer to me for the success of an enterprise which is of the greatest consequence for this colony and for the State, for our object is to place ourselves beyond dependence on the Americans for

the provisioning of flour stuffs, that Louisiana will succeed perhaps one day in furnishing to the Havana, which will procure her a new branch of commerce.

You will surely be highly satisfied with the character, knowledge, and private views of the Marquis de *Baton* Rouge. You will find in him a friend who will render agreeable to you the kind of solitude in which you have lived until now; and I hope . . . you two will transform these deserts into an enchanted land, seeing that the circumstances and present situation of Europe permit us to draw thither a great number of useful emigrants, for I do not there . . . any kind of indolent people, or people little adapted to agriculture.

I have the honor to be, with the most perfect consideration, sir, your very humble and very obedient servant,

THE BARON DE CARONDELET.

Translation.

Carondelet to Filhiol.

NEW ORLEANS, *this 2d June*, 1796.

No. 5.—Rec'd the 14th July, by Mr. Breard.

I have received and read, sir, with a real pleasure the letter which you have written to Mr. de Maison Rouge, the 23d April, and of which you send me the copy in that of No. 10. The representations which you make to him are founded on justice, reason, and moderation. If he has no regard to them, it will be necessary to employ the force of the laws; and although I shall learn with pain that he should have forced you to have recourse to them, I cannot but approve your firmness and sustain your decisions; for it is not just that a private person should keep the public depending upon him, and I am ignorant, as I remark to him, of what it is to step aside from the laws and from the most impartial justice.

As to Mr. Morrison, I have ascertained that he is in no manner founded in pretending to maintain himself on a territory which does not belong to him, and to dismember it from that which I have destined to the new establishment. If, however, he had there a house and consequent works, I could accord[illegible] the same extent of land as if he made part of the said establi[illegible], cutting short, in this manner, all jealousy and pretensions of the [illegible] colonists.

Mr. de Maison Rouge asks me for a surveyor; but the establishment is, as yet, of too little consequence for this effect; and you can, while awaiting it to gain vigor, give this commission to some satisfactory persons, or fill it yourself.

The pretension to the establishment of a company of cavalry is a chimera in the present circumstances; but if the boundary treaty takes place, of which I doubt as yet, there may be a garrison of regular troops established at Fort Miro.

Mr. the Baron de Bastrop, who is at present descending the river, will succeed, perhaps, in convincing Mr. de Maison Rouge of the nullity of the system which he has formed for himself. He has appeared to me of an upright character, full of good sense, and of a mildness that has rendered him beloved here by every one. You will surely, sir, be content with him, and he will contribute to enliven your solitude.

The order which I transmit you concerning those engaged for the new establishment will only have force—take good care of this—so far as their engagement shall have been contracted without the domains of the King, in writing, or before two impartial witnesses, in case the party concerned does not know how to write.

I have the honor to be, with the most perfect consideration, sir, your very humble and very obedient servant.

THE BARON DE CARONDELET.

Mr. FILHIOL.

Translation.

Baron Carondelet to Maison Rouge.

NEW ORLEANS, *this 5th March*, 1797.

I have remitted, sir, to Mr. de Grand-Pré the verification and decision of the complaint which you bring before me by your letter of the 23d, taking into consideration that, not being on the spot, it is impossible for me to judge of it by myself; nevertheless, I cannot prevent myself from telling you that your debt towards Mr. de la Beaume, being contracted purely and simply by a note, which in no manner mentions the restrictions which you set forth, you are so situated that you must satisfy it or be executed upon according to the laws of all countries. I send to Mr. de Grand-Pré the mandate of execution, in order that he may leave you the means of entering previously into arrangement with Mr. de la Beaume, and that if you cannot succeed in doing so, he may give it the course prescribed by law.

Every appraisement should be made by experts, named equally by the parties interested; but when they cannot agree, the judge names the third.

I have despatched your petition (requete) to have your proprietorship established, (constator,) although it was not in regular shape. According to my decree you will have to address yourself to the surveyor general for the legal title. I have learned from him that his deputy, Don Vizente Pintado, having presented himself last year at Ouachita to survey the possessions of the inhabitants and the bounds, they had refused it, saying that they had not wherewith to pay his fees; nevertheless he cannot travel and work for nothing.

I have forbidden Carnet to establish himself at Ouachita under any pretext whatever; but he is going to place himself at Natchez, whence he will send the Choctaws to hunt on your side, which will be still more dangerous, for the Natchez being no longer ours, we will have

nothing to say to him. To render this post more respectable, I am about to send a small garrison there; but I do not know where to lodge it, and it would be necessary for the inhabitants to aid to cut palisades to form an enclosure, or species of fort, in which they could retire in case of insult, and in the midst of which I would place a strong house, where the garrison would lodge; an engineer is to depart within a few days to reconnoitre its position.

You must know that the King has named me commandant general of these provinces, and that I am no longer dependant, except on the ministers.

We expect momentarily the Baron de Bastrop, who is descending with five thousand quarters of flour.

I have the honor to be, with the most perfect consideration, sir, your very humble and very obedient servant,

THE BARON DE CARONDELET.

Mr. DE MAISON ROUGE.

Vilhiol to Maison Rouge.

SR. MARQUIS: By an official letter of his excellency, the Governor General, of the 24th June last, he advises me that for motives which interest equally the service of the King, the general good, and the tranquillity of the posts of Natchitoches, Ouachita, Rapides, and Avoyelles, he has named as lieutenant governor of the said posts, Don Carlos de Grand Pré, who is to make his residence at Ouachita, and enjoins me to obey his orders as commandant.

By a private letter of the 30th July, his excellency complains that you have permitted the departure of Mr. D'Aigrepont, whom you treat as a colonist, and to whom you have caused 100 dollars to be given in said quality by the treasury, under pretect that the caterpillars have ravaged his corn, assuring it that Mr. D'Aigrepont will return this sum in case he should depart from Louisiana; and tells me to say to you on his part, sir, that this manner of acting is not customary among us, where every thing is done with the greatest formality; that before letting Mr. D'Aigrepont abandon the establishment for which he had engaged himself, you should have obliged him to return to the King the 100 dollars which have been advanced to him, and for which you will find yourself accountable towards the royal treasury for having failed in this formality.

His excellency adds: I charge you also, sir, in the absence of Mr. de Grand Pré, to oblige Mr. de Maison Rouge to make choice of the 4,000 arpents of land, which are to be distributed to the 30 families which he is to establish; forbidding him to disturb the ancient inhabitants, from whom he is to place his establishment apart in such a manner as not to incommode them. I have the honor to notify you, sir, that owing to your having failed until now, in making choice of these 4,000 arpents, it is no longer lawful for you to make it, unless at six leagues distance from the bayou de Siard, inasmuch as all that is comprised in this

space, and which is not granted, is destined to the families which the Baron de Bastrop is to introduce there.

By decree of his excellency, it is enjoined upon me to act judicially to constrain you to the payment of divers of your obligations, amounting to the sum of 283 dollars. Spare me, I pray you, sir, this disagreeable course, by satisfying immediately this sum. Decide yourself, if it must be so, to a sacrifice, to which you must make up your mind, before it be rendered of more consequences by the costs which will follow. I await on this subject your reply until the 20th instant.

I am, with respect, Sr. Marquis, your very humble and very obedient servant,

FILHIOL.

Fort Miro, the 12th September, 1796.

Petition of Bastrop to Carondelet.

To his excellency the Señor Baron de Carondelet, governor general of the province of Louisiana, &c.

Don Philip de Bastrop has the honor to observe to your lordship that the twelve leagues square which your lordship has granted to him by his contract, are found in part overflowed and occupied by ancient inhabitants; in consequence of which he prays that your lordship will be pleased to grant him the same quantity of land, to be taken upon the river Ouachita and the bayou de Syard and Barthelemy, where it will be most convenient to him, without prejudice to the lands which your lordship has granted to the Señor de Maison Rouge, in the prairie Chatillerian. A favor which he hopes to receive from the upright justice which your lordship administers.

P. DE BASTROP.

New Orleans, the 10th of June, 1797.

Order.

New Orleans, 10th June, 1797. As he requests, let it be despatched by the secretary department in the form which he solicits.

The BARON DE CARONDELET.

[For map, see original.]

Don Carlos Trudeau, royal and special surveyor of the province of Louisiana.

I certify, that the foregoing plan contains one hundred and forty-four leagues in superficie, each league forming a square which has for side two thousand five hundred fathoms measure of the city of Paris, in use in this colony; said land is situated in the post of Ouachita, at about eighty leagues from the mouth of said river, on the Red river; said land *in* bounded on the southwest side by the occidental bank of river and bay Ouachita, Barthelemy, and Siar, agreeably to the red line, forming the limits on said river and bay to the south, by a line running south

sixty-five degrees each, by three leagues and one mile in length, taking from the bank, marked C, on bayou Siar, till the junction of said bayou Siar with bayou Barthelemy; said mark A being the basis of the line of measurement (A B,) of twelve leagues in length, in parallel manner to the plan of bayou Barthelemy, from the point (A) till the last of the said twelve leagues, which terminates at point (B,) at the mouth of the small bayou named Termino. The limits (D E F G) are parallel, running north fifty-two degrees east, without notice to the variation of the compass, *this* making a variation of eight degrees to the northeast; and as a proof, I give the foregoing, with a figurative plan annexed to the same, in favor of Mr. the Baron de Bastrop, the fourteenth of June, one thousand seven hundred and ninety-seven. I have signed this as surveyor, and further down the same is recorded in the liber A, No. 1, verso 28, No. 922 of the copies of measurement, copied from the originals, and despatched in duplicate to the secretary of the governor, from the verbal order of his excellency the commandant general, Mr. Baron de Carondelet, ut supra.

(Signed) CARLOS TRUDEAU.

I certify the following copy conformable to the original, which is deposited in the office of the surveyor general.

New Orleans, the fifth day of November, one thousand seven hundred and ninety-seven.

(Signed) CARLOS TRUDEAU,
Surveyor General.

I certify the forgoing to be a true copy of the original filed letter B, No. 8, and deposited amongst the records in the surveyor general's office under my charge.

In testimony whereof I have hereunto set my hand and seal of office, in the city of New Orleans, this 11th February, 1848.

LS. BRINGIER,
Surveyor General.

I certify the foregoing to be a true and correct translation of document marked D, filed in the case of Heirs of Turner vs. United States.

LS. DUVIGNEAUD,
U. States Translator.

STATE OF LOUISIANA, *parish of Ouachita.*

By virtue of a commission directed to any judge, justice of the peace, or magistrate in the parish of Ouachita, State of Louisiana, from the honorable the court of the United States for the district of Louisiana, dated at New Orleans, the 10th day of July, A. D. 1846, I, Paul McEnery, a justice of the peace in and for the parish of Ouachita, and State aforesaid, this 22d day of February, 1847, took the depositions or answers of Henry Bry, a witness produced on the part of petitioners, which depositions are to be read in evidence on the trial of this cause, as follows:

Answer of witness to interrogatory the 1st. My name is Henry Bry; near 66 years old; born in Geneva, in Switzerland; my residence, near Monroe, parish of Ouachita; my occupation, farming.

Answer to interrogatory 2d. I became acquainted with Bastrop's grant when I first came here, in August, 1803; and became acquainted with Bastrop, who often spoke to me about his grant. The plaintiffs are in possession of lands claimed under the Bastrop title, and situated within the limits of the survey of the grant. They have been in possession since the death of Stephen Girard, who willed it to them in the year 1831. Stephen Girard had been in possession at different succeeding times. His first purchase in his own name was made at auction in Philadelphia, on the 29th January, 1822; when and where the remaining part of Abraham Morehouse's share of the grant was offered by the trustee of the heirs of Morehouse, and was purchased by Stephen Girard, James Lyle, and Robt. E. Griffith, in different proportions. The share of James Lyle was computed to be 62,281 arpents, and Robt. E. Griffith 25,785 arpents. Their representatives are also claimants in that grant under precisely the same title as the plaintiffs above named; the balance of the lands, belonging to and claimed by plaintiffs, was purchased by Stephen Girard from several owners at different times, whose titles were derived from Bastrop through Morehouse and others. The whole amount claimed by plaintiffs is computed at upwards of 212,000 arpents. Their possession has been public and notorious, all the deeds relative thereto being recorded here. They have punctually paid all taxes to a large amount, and several persons have taken leases for small tracts from their agent. The oldest title under Bastrop, or by Bastrop in person, is the one of Bastrop himself. In June, 1795, when Governor Carondelet ordered J. Filhiol, then commandant here, to designate 12 square leagues of land for the grant to Bastrop, the following year, same month, Carondelet approved the plan or plat made by Laveau Trudeau of the 12 square leagues, granting the same to Bastrop. I knew this from having seen copies of the orignal title papers of the grant.

Answer to interrogatory the 3d. I never saw the original grant, nor do I know where it is, or what has become of it. I am, however, persuaded that Bastrop took it from the archives of this parish when Vicente F'z. Texeiro was commandant.

Answer to interrogatory the 4th. I never saw any original document of Bastrop's grant.

Answer to interrogatory the 5th. I saw an authentic copy of the Bastrop grant in the hands of John Nancarrow, who was an agent of Bastrop. I do not know precisely what year; probably in 1810 or 1811. He left it with me when he last was here, about 16 or 18 years ago, asking of me to translate it for him. I never saw him since. He died in Natchitoches. I kept that copy, and it is hereto annexed, No. 1, and is the same which has been exhibited to the witnesses who have spoken of it. I am well acquainted with the signatures to that document. I have often seen Bastrop, Pomet, and Villard write. I never

saw Texeiro write; but, by comparing it with other [signatures] of *him*, I am sure that he signed this. Bastrop was a Hollander. I knew him since 1803. He died at St. Antonio de Bexar, as I was informed. I knew Villard at the same time. Pomet some time afterwards. Villard was a farmer. He died here about twenty years ago. Pomet was a clerk in a commercial house at the then post of Ouachita, He died, I believe, in Natchez some years ago. None of these three persons held any public office or situation. If alive, Bastrop would, I think, be about 90 years old; Villard and Pomet nearly the same.

Answer to interrogatory the 6th. I was not here before 1803, when the persons who came under Bastrop's contract settled within the limits of the grant. I have seen a list of them amounting to one hundred and eleven. I have known many of the heads of families therein named, to each of whom, I was informed by general report, 400 arpents had been allotted in the grant. I have had also a statement from J. McLaughlin, annexed to same *to same* field notes of the survey of the grant, specifying the same number of persons as settled under Bastrop's contract; (he was a deputy surveyor under Laveau Trudeau.) I am well acquainted with McLaughlin's handwriting; and his statement hereto annexed, No. 2, was certainly written by him. A great number of families have since got possession of, and settled on, tracts of land in that grant by purchase or otherwise from its owners. The whole parish of Morehouse is included in it. Its population cannot be less than 400 *a* 500 souls. The plaintiffs never sold any of their lands there.

Answer to interrogatory the 7th. I do not know of any other fact or circumstance which could be of advantage to the plaintiffs, except the unanimous opinion of all the inhabitants, that it is a good bona fide grant, for the obtaining or keeping possession of which not the least appearance of fraud was ever resorted to. I can further state, what would have been better placed in answer to 2d interrogatory, to wit, the amount of State and parish taxes paid by the plaintiffs and others on the Bastrop grant, as follows:

By S. Girard, from whom plaintiffs hold - - -	$2,372 00
By the plaintiffs - - - - - -	6,044 00
By the representatives of James Lyle - - -	2,145 00
By the representatives of Robt. E. Griffith - -	1,435 77
By preceding owners of the above - - - -	9,000 00

Of this last item I have not sufficient data to be precise. Other owners in the balance of the grant, about ¾, have been taxed in the same pro portion. Direct taxes were also paid to the United States, for 1816, on that grant. I have two receipts, which I annex hereto, No. 4 and 5, signed by Jonathan Morgan, employed by T. A. Blanc, collector; to his signature I testify, having seen him write very often. Another receipt from Felix Arnaud, then State treasurer, for State taxes for 1821, to Ed'd George, who was sent here by S. Girard as his agent, is also attached hereto, No. 3. I knew personally Ed. George, and saw him write often; he certainly signed the deposition accompanying that receipt.

Answers of witness to cross interrogatory, viz:

Answer to 1st interrogatory. I have no interest in the event of this suit.

Answer to 2d interrogatory. No.

Answer to 3d interrogatory. I am not related to any one holding any of these lands in any way, or interested in this suit.

Answer to 4th interrogatory. I am on terms of friendship with many owners in that grant.

Answer to interrogatory the 5th. I live within a few miles from the southwest corner of the grant.

Answer to 6th interrogatory. I have resided since 1804 in the neighborhood.

7th interrogatory answered in the above.

In answer to interrogatories 8th, 9th, 10th, 11th, 12th, and 13th, I can only say that, having been first here in August, 1803, it was but by general reports I was informed of what happened before in relation to the grant; when I arrived there were many families settled thereon.

Answer to interrogatory the 14th. There was at my arrival here but one grist mill, which had been erected by Bastrop at the mouth of bayou Sieard.

Interrogatories 15th and 16th answered by the above.

Answer to 17th interrogatory. Third interrogatory in chief is answered negatively.

Interrogatories 18th, 19th, 20th, 21st, 22d, and 23d, are answered by the above.

Answer to interrogatory the 24th. I was well acquainted with John Filhiol, former commandant of the post of Ouachita, under the Spanish government.

Answer to interrogatory the 25th. John Filhiol died about 24 years ago, and was then 82 or 83 years of age.

Answer to interrogatory the 26th. No.

Answer to interrogatory the 27th. I was at my arrival in 1803 informed that there was an authorized deputy surveyor of the Spanish government; his name was J. McLauchlin; I became acquainted with him; he died several years ago; in 1803 he appeared to be about 38 or 40 years old.

My answer to 4th interrogatory in chief is in the negative, and serves as an answer to interrogatory 28th.

My answer to interrogatory the 5th, in chief, will equally answer interrogatory the 29th, with the addition I cannot tell how often I have seen Bastrop, Pomet, and Villard sign their names; Pomet very often, Villard less, and Bastrop not over 4 or 5 times.

Answer to interrogatory 30th. I never saw any other copy (authentic) of the grant, than the one alluded to above and annexed hereto, No. 1.

Answer to interrogatory 31st. No. I was not here in 1795 or 1796.

Interrogatory 32d answered by the above, as well the 33d.

H. BRY.

Sworn to and subscribed before me, on this 22d day of February, A. D. 1847. PAUL McENERY, *Justice of the peace.*